

THE COMMISSIONERS  
FOR THE  
QUEEN VICTORIA NIAGARA FALLS PARK,  
AND  
GEORGE HENRY HOWARD AND THOMAS SWINYARD.  
APPENDIX A.  
EXHIBITS.  
NOS. 1 TO 170.

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# IN THE COURT OF APPEAL FOR ONTARIO

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BETWEEN

THE COMMISSIONERS FOR THE QUEEN VICTORIA NIAGARA FALLS  
PARK AND THE HONOURABLE SIR OLIVER MOWAT, HER  
MAJESTY'S ATTORNEY-GENERAL FOR THE PROVINCE OF  
ONTARIO, ON BEHALF OF HER MAJESTY, (RESPONDENTS)

PLAINTIFFS;

AND

GEORGE HENRY HOWARD AND THOMAS SWINYARD, (APPELLANTS)

DEFENDANTS.

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## APPENDIX "A" TO APPEAL BOOK CONTAINING EXHIBITS

### PART I.

CONTAINING EXHIBITS 1 TO 74 INCLUSIVE

PAGES 1 TO 231 INCLUSIVE

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KINGSMILLS, SYMONS, SAUNDERS & TORRANCE,  
*Solicitors for Appellants.*

ÆMILIUS IRVING, Q.C.,  
*Solicitor for Respondents.*

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OTTAWA  
GOVERNMENT PRINTING BUREAU  
1894





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ARRANGED IN ORDER OF DATES.

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*Can't ever  
license*

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and by Order in Council of 14 Dec 1885 - the  
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not applying cost for title





# IN THE HIGH COURT OF JUSTICE

## CHANCERY DIVISION

BETWEEN

THE COMMISSIONERS OF THE QUEEN VICTORIA NIAGARA FALLS PARK  
AND THE HONOURABLE OLIVER MOWAT HER MAJESTY'S  
ATTORNEY GENERAL FOR THE PROVINCE OF ONTARIO ON  
BEHALF OF HER MAJESTY

PLAINTIFFS

AND

GEORGE HENRY HOWARD AND THOMAS SWINYARD

DEFENDANTS.

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### EXHIBITS.

#### No. 1.

##### ADMISSIONS.

1.—IT IS AGREED AND ADMITTED between the parties to this action as to the various documents produced herein (and set forth or referred to in the annexed chronological list of documents) that such of the documents as are specified to be originals were respectively written, signed or executed, sent and received as they purport respectively to have been, and that such as are specified as copies are true copies, the originals of which were respectively written, signed or executed, sent and received, as they purport respectively to have been, and that such of the documents as may be considered as official and the originals or copies of which are or should be in the custody of some departmental officer or officers in the service of the Province of Ontario or Dominion of Canada or the Imperial Government, shall be admitted as evidence on the trial of this action as if the same were proved or actually produced out of the proper custody, saving all just exceptions as to the admissibility of all or any such documents as evidence in this action, the intention being to avoid the expense of formal proof or the calling of any such officer or officers.

2.—AND IT IS FURTHER AGREED by all parties to this action to produce at the said trial and for use at the same all the documents hereinbefore referred to and produced respectively by either the plaintiffs or the defendants, and in default of such production either party shall be entitled to use the copies now in their possession as if the originals were forthcoming.



3.—It is also admitted for the purposes of this action that the plaintiffs the Commissioners have under the Acts relating to the Queen Victoria Niagara Falls Park, acquired the interest and property of the corporation formerly or at some time known as the St. Catharines, Thorold and Suspension Bridge Road Company, or the St. Catharines, Thorold and Niagara Falls Stone Road Company, or as described in the Act 51 Victoria, chapter 7 (Ont.), in that portion of the macadamized road located between Table Rock and Suspension Bridge, as well as the rights, title, possession and franchises of the person or persons having the title, interest and possessory rights, therein.

10      4.—It is admitted for the purposes of this action that the acts of the defendants complained of by the plaintiffs in the statement of claim herein were committed upon lands lying in the front of lot number 144 and lot number 129 of Stamford, or either of the said lots as said lots are described in the patents to the grantees of the Crown—being upon the chain of land and the top of the bank and upon the land forming the slope between the top of the bank and the water's edge—under the powers and in pursuance of the rights created by leases granted by the Dominion of Canada to the defendants produced, which powers and rights are questioned and disputed by the plaintiffs, but which the defendants claim justified them in so doing, and with the intention of performing the works in the said leases provided or either of them.

20      Dated this 6th day of June, 1891.

ÆMILIUS IRVING,  
*Plaintiffs' Solicitor.*

KINGSMILL, SYMONS, SAUNDERS & TORRANCE,  
*Defendants' Solicitors.*

## No. 1 A.

COMMISSION TO JAMES MURRAY, ESQ., AS CAPTAIN-GENERAL AND  
GOVERNOR-IN-CHIEF OF THE PROVINCE OF QUEBEC, DATED  
21ST NOVEMBER 1763.

G.R.

(*Masères's Collection, Number IX, page 93.*)

30 GEORGE the THIRD, by the Grace of God, of Great Britain, France and Ireland,  
King, Defender of the Faith, and so forth, to our trusty and well-beloved James  
Murray, Esquire,

GREETING:

WE, reposing especial trust and confidence in the prudence, courage, and loyalty  
of you, the said James Murray, of our especial grace, certain knowledge, and mere  
motion, have thought fit to constitute and appoint, and by these presents do consti-



tute and appoint you, the said James Murray, to be our Captain-General and Governor-in-chief in and over our Province of Quebec, in America;

Bounded on the Labrador coast by the River St. John; and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissim, from whence the said line crossing the River St. Lawrence and the Lake Champlain, in forty-five degrees of northern latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea; and also along the north coast of the Baye des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosieres; and from thence 10 crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John: together with all the rights, members, and appurtenances whatsoever thereunto belonging.

And we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present commission and the instructions and authorities herewith given unto you, or by such other powers, instructions, and authorities as shall at any time hereafter be granted or appointed under our signet and sign manual, or by our order in our Privy Council, and according to such reasonable laws and statutes as shall hereafter be 20 made and agreed upon by you with the advice and consent of the council and assembly of our said province under your government, in such manner and form as is hereinafter expressed.

And our will and pleasure is, that you, the said James Murray, do, after the publication of these our letters patent, and after the appointment of our council for our said province in such manner and form as is prescribed in the instructions which you will herewith receive, in the first place take the oaths appointed to be taken by an Act passed in the first year of the reign of King George the First, intituled: "An "Act for the further security of His Majesty's person and government, and the succession of the crown in the heirs of the late Princess Sophia, being Protestants, and 30 "for extinguishing the hopes of the pretended Prince of Wales, and his open and "secret abettors"; as also that you make and subscribe the declaration mentioned in an Act of parliament made in the twenty-fifth year of the reign of King Charles the Second, intituled: "An Act for preventing dangers which may happen from "Popish recusants"; and likewise that you take the oath of office usually taken by our governors in the other colonies for the due execution of the office and trust of our Captain-General and Governor-in-chief in and over our said province, and for the due and impartial administration of justice; and further, that you take the oath required to be taken by the governors of the plantations to do their utmost that the several laws relating to trade and plantations be duly observed; which said oaths



and declarations our council of our said province, or any three of the members thereof, have hereby full power and authority, and are hereby required to tender and administer to you.

All which being duly performed, you shall yourself administer to each of the members of our said council, and to the lieutenant-governors of Montreal and Trois Rivières, the said oaths mentioned in the said Act, intituled : "An Act for the further security of His Majesty's person and government, and the succession of the crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors"; and also cause them to make and subscribe the afore-mentioned declaration, and also shall administer unto them the usual oaths for the due execution of their places and trust.

And we do further give and grant unto you, the said James Murray, full power and authority from time to time and at any time hereafter, by yourself, or by any other to be authorized by you in this behalf, to administer and give the oaths mentioned in the said Act "for the further security of His Majesty's person and government, and the succession of the crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors," to all and every such person or persons as you shall think fit, who shall at any time or times pass into our said province, or shall be resident or abiding there.

And we do hereby authorize and empower you to keep and use the public seal which will herewith be delivered to you, or shall be hereafter sent to you, for sealing all things whatsoever that shall pass the great seal of our province.

And we do hereby give and grant unto you, the said James Murray, full power and authority, with the advice and consent of our said council to be appointed as aforesaid, so soon as the situation and circumstances of our said province under your government will admit thereof, and when and as often as need shall require, to summon and call general assemblies of the freeholders and planters within your government, in such manner as you in your discretion shall judge most proper; or according to such further powers, instructions, and authorities as shall be at any time hereafter granted or appointed you under our signet or sign manual, or by our order in our Privy Council.

And our will and pleasure is, that the person thereupon duly elected by the major part of the freeholders of the respective parishes or precincts, and so returned, shall, before their sitting, take the oaths mentioned in the said act, intituled, "An Act for the further security of His Majesty's person and government, and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants,



" and for extinguishing the hopes of the pretended Prince of Wales, and his open and " secret abettors ; " as also make and subscribe the fore-mentioned declaration ; which oaths and declaration you shall commissionate fit persons under the public seal of that our province to tender and administer unto them ; and, until the same shall be so taken and subscribed, no person shall be capable of sitting, though elected.

And we do hereby declare, that the persons so elected and qualified shall be called *The assembly of that our Province of Quebec*; and that you, the said James Murray, by and with the advice and consent of our said council and assembly, or the major part of them, shall have full power and authority to make, constitute, and 10 ordain, laws, statutes, and ordinances, for the public peace, welfare, and good government of our said province, and of the people and inhabitants thereof, and such others as shall resort thereunto, and for the benefit of us, our heirs and successors ; which said laws, statutes, and ordinances are not to be repugnant, but, as near as may be, agreeable to the laws and statutes of this our Kingdom of Great Britain.

Provided that all such laws, statutes, and ordinances, of what nature or duration soever they be, shall be, within three months, or sooner, after the making thereof, transmitted to us, under our seal of our said province, for our approbation or disallowance of the same, as also duplicates thereof, by the next conveyance.

20 And in case any, or all, of the said laws, statutes, and ordinances, not before confirmed by us, shall at any time be disallowed and not approved, and so signified by us, our heirs and successors, under our, or their, signet and sign manual, or by order of our, or their, Privy Council, unto you, the said James Murray, or to the commander in chief of our said province for the time being, then such and so many of the said laws, statutes, and ordinances as shall be so disallowed and not approved, shall from thenceforth cease, determine, and become utterly void and of no effect ; any thing to the contrary thereof notwithstanding.

And to the end that nothing may be passed or done by our said council or assembly to the prejudice of us, our heirs and successors, we will and ordain that 30 you the said James Murray shall have and enjoy a negative voice in the making and passing all laws, statutes, and ordinances as aforesaid : and that you shall and may likewise from time to time, as you shall judge necessary, adjourn, prorogue, or dissolve all general assemblies as aforesaid.

And we do by these presents give and grant unto you the said James Murray full power and authority, with the advice and consent of our said council, to erect, constitute, and establish such and so many courts of judicature and public justice within our said province under your government as you and they shall think fit and necessary, for the hearing and determining of all causes, as well criminal as civil, according to law and equity, and for awarding execution thereupon, with all



reasonable and necessary powers, authorities, fees, and privileges belonging thereto ; as also to appoint and commissionate fit persons in the several parts of your government to administer the oaths mentioned in the aforesaid act, intituled : " An " Act for the further security of His Majesty's person and government, and the " succession of the Crown in the heirs of the late Princess Sophia, being Protestants, " and extinguishing the hopes of the pretended Prince of Wales, and his open and " secret abettors ; " as also to tender and administer the aforesaid declaration to such persons belonging to the said courts as shall be obliged to take the same.

And we do hereby grant unto you full power and authority to constitute and  
10 appoint judges, and, in cases requisite, commissioners of oyer and terminer, justices  
of the peace, and other necessary officers and ministers, in our said province, for the  
better administration of justice and putting the laws in execution ; and to administer,  
or cause to be administered, unto them such oath or oaths as are usually given for  
the due execution and performance of offices and places, and for clearing the truth  
in judicial causes.

And we do hereby give and grant unto you full power and authority when you  
shall see cause, or shall judge any offender or offenders in criminal matters, or for  
any fines or forfeitures due unto us, fit objects of our mercy, to pardon all such  
offenders, and remit all such offences, fines, and forfeitures, treason and wilful murder  
20 only excepted ; in which cases you shall likewise have power, upon extraordinary  
occasions, to grant reprieves to the offenders until, and to the intent that, our royal  
pleasure may be known therein.

And we do by these presents give and grant unto you full power and authority  
to collate any person or persons to any churches, chapels, or other ecclesiastical  
benefices within our said province, as often as any of them shall happen to be void.

And we do hereby give and grant unto you, the said James Murray, by yourself,  
or by your captains and commanders by you to be authorized, full power and  
authority to levy, arm, muster, command and employ all persons whatsoever residing  
within our said province ; and, as occasion shall serve, them to march, embark or  
30 transport, from one place to another, for the resisting and withholding of all enemies,  
pirates and rebels, both at land and sea ; and to transport such forces to any of our  
plantations in America, if necessity shall require, for the defence of the same against  
the invasion or attempts of any of our enemies ; and such enemies, pirates and rebels,  
if there should be occasion, to pursue and prosecute in or out of the limits of our said  
province ; and, if it shall so please God, them to vanquish, apprehend and take ; and,  
being taken, according to law to put to death, or keep and preserve alive, at your  
discretion ; and to execute martial law in time of invasion, war, or other times when  
by law it may be executed ; and to do and execute all and every other thing and  
things which to our Captain General and Governor in Chief doth, or of right  
ought to belong.



And we do hereby give and grant unto you full power and authority, by and with the advice and consent of our said council, to erect, raise, and build in our said province, such and so many forts, platforms, castles, cities, boroughs, towns, and fortifications as you, by the advice aforesaid, shall judge necessary ; and the same, or any of them, to fortify and furnish with ordnance, ammunition, and all sorts of arms fit and necessary for the security and defence of our said province ; and by the advice aforesaid, the same again, or any of them, to demolish or dismantle as may be most convenient.

And forasmuch as divers mutinies and disorders may happen by persons shipped  
 10 and employed at sea during the time of war, and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered, we hereby give and grant unto you, the said James Murray, full power and authority to constitute and appoint captains, lieutenants, masters of ships, and other commanders and officers ; and to grant to such captains, lieutenants, masters of ships, and other commanders and officers, commissions to execute the law martial during the time of war, according to the directions of an Act passed in the twenty-second year of the reign of our late royal grandfather, intituled : " An Act for amending, explaining, and " reducing into one act of Parliament the laws relating to the government of His " Majesty's ships, vessels, and forces by sea " ; and to use such proceedings, author-  
 20 ties, punishments, corrections, and executions upon every offender or offenders who shall be mutinous, seditious, disorderly, or any way unruly either at sea or during . the time of their abode or residence in any of the ports, harbours, or bays in our said province, as the case shall be found to require, according to martial law and the said directions, during the time of war, as aforesaid.

Provided that nothing herein contained shall be construed to the enabling you, or any by your authority, to hold plea, or have any jurisdiction, of any offence, cause, matter, or thing committed or done upon the high sea, or within any of the havens, rivers, or creeks of our said province under your government, by any captain, com-  
 30 mander, lieutenant, master, officer, seaman, soldier, or person whatsoever who shall be in actual service and pay in, or on board of, any of our ships of war, or other vessel acting by immediate commission or warrant from our commissioners for executing the office of high admiral of Great Britain, or from our high admiral of Great Britain for the time being, under the seal of our admiralty ; but that such cap-  
 tain, commander, lieutenant, master, officer, seaman, or soldier, or other person so offending, shall be left to be proceeded against and tried as their offences shall require, either by commission under our great seal of this Kingdom, as the statute of the twenty-eighth of Henry the Eighth directs, or by commission from our said commis-  
 sioners for executing the office of high admiral of Great Britain, or from our high admiral of Great Britain, for the time being, according to the aforesaid mentioned act intituled : " An Act for amending, explaining, and reducing into one act of

Commission to James Murray as  
Governor in chief of the  
Province of Quebec.

Power to build Forts etc

" parliament the laws relating to the government of His Majesty's ships, vessels and forces by sea," and not otherwise.

Provided nevertheless, that all disorders and misdemeanors committed on shore by any captain, commander, lieutenant, master, officer, seaman, soldier or other person whatsoever belonging to any of our ships of war, or other vessels, acting by immediate commission or warrant from our commissioners for executing the office of high admiral of Great Britain, or from our high admiral of Great Britain for the time being, under the seal of our admiralty, may be tried and punished according to the laws of the place where any such disorders, offences, and misdemeanors shall be committed on shore, notwithstanding such offender be in our actual service and borne in our pay on board any of our ships of war, or other vessels acting by our immediate commission or warrant from our commissioners for executing the office of high admiral of Great Britain, or from our high admiral of Great Britain for the time being as aforesaid, so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea.

And our further will and pleasure is, that all public monies, raised or which shall be raised, by any act hereafter to be made within our said province, be issued out by warrant from you, by and with the advice and consent of our council as aforesaid, for the support of the government, and not otherwise.

And we likewise give and grant unto you full power and authority, by and with the advice and consent of our said council, to settle and agree with the inhabitants of our said province for such lands, tenements, and hereditaments as now are, or hereafter shall be, in our power to dispose of, and them to grant to any person or persons upon such terms and under such moderate quit-rents, services, and acknowledgements, to be thereupon reserved unto us, as you, with the advice aforesaid, shall think fit; which said grants are to pass and be sealed by our public seal of our said province, and, being entered upon record by such officer or officers as shall be appointed thereunto, shall be good and effectual in the law against us, our heirs and 30 successors.

Provided the same be conformable to the instructions herewith delivered to you, or to such other instructions as may hereafter be sent you under our signet and sign manual, or by our order in our Privy Council; which instructions, or any articles contained therein, or any such order made in our Privy Council, so far as the same shall relate to the granting of lands as aforesaid, shall from time to time be published in the province, and entered on record in like manner as the said grants are hereby directed to be entered.

And we do hereby give you, the said James Murray, full power and authority to order fairs, marts, and markets, and also such and so many ports, harbours, bays, havens, and other places for the convenience or security of shipping, and for the

## Land Grants

Power, with the advice and consent of our Council  
to settle and agree with the inhabitants  
for such lands  
as noware or hereafter shall be incorporated  
to dispese of, and them to grant  
public seal of our Province and entered  
upon record

better loading and unloading of goods and merchandizes, in such and so many places as, by and with the advice and consent of our said council, shall be thought fit and necessary.

And we do hereby require and command all officers and ministers civil and military, and all other inhabitants of our said province, to be obedient, aiding, and assisting unto you, the said James Murray, in the execution of this our commission and of the powers and authorities therein contained; and, in case of your death or absence from our said province and government, to be obedient, aiding, and assisting to the commander in chief for the time being; to whom we do therefore by these 10 presents give and grant all and singular the powers and authorities herein granted, to be by him executed and enjoyed during our pleasure, or until your arrival within our said province.

And in case of your death or absence from our said province, our will and pleasure is, that our lieutenant-governor of Montreal or Trois Rivières, according to the priority of their commissions of lieutenant-governor, do execute our said commission with all the powers and authorities therein mentioned, as aforesaid. And in case of the death or absence of our lieutenant-governors of Montreal and Trois Rivières from our said province, and that there shall be no person within our said province appointed by us to be lieutenant-governor or commander in chief of 20 our said province, our will and pleasure is, that the eldest councillor, who shall be, at the time of your death, or absence, residing within our said province, shall take upon him the administration of the government, and execute our said commission and instructions, and the several powers and authorities therein contained, in the same manner to all intents and purposes as other our governor or commander in chief should or ought to do, in case of your absence, or until your return, or in all cases until our further pleasure be known.

And we do hereby declare, ordain, and appoint, that you, the said James Murray, shall and may hold, execute, and enjoy the office and place of our Captain-General and Governor-in-Chief, in and over our said province of Quebec and all the territories 30 depending thereon, with all and singular the powers and authorities hereby granted unto you, for and during our will and pleasure. In witness whereof we have caused these our letters to be made patent.

Witness ourself at Westminster the twenty-first day of November, in the fourth year of our reign.

By writ of privy seal.

(Signed) YORKE & YORKE.

Recorded at the Treasury Chambers, Whitehall, the 28th day of November 1763.

(Signed) T. TOMKYNNS.

Recorded in the Register's Office in Quebec, the 7th day of June 1766.

(Signed) J. GOLDFRAP, D. Regr.



**No. 2.**

COMMISSION TO GUY CARLETON, ESQUIRE, AS LIEUTENANT-GOVERNOR  
OF THE PROVINCE OF QUEBEC, DATED 7TH APRIL, 1766.

(*Masères's Collection, No. XII. page 122.*)

GEORGE R.

GEORGE the THIRD, by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, and so forth; To our trusty and well-beloved Guy Carleton, Esquire,

GREETING:—

We, reposing especial trust and confidence in your loyalty, integrity, and 10 ability, do, by these presents, constitute and appoint you to be our Lieutenant-Governor of our Province of Quebec, in America; to have, hold, exercise, and enjoy the said place and office during our pleasure, with all rights, privileges, profits, perquisites, and advantages to the same belonging or appertaining.

And further, in case of the death, or during the absence, of our captain-general and governor-in-chief of our said Province of Quebec, now, and for the time being, we do hereby authorize and require you to exercise and perform all and singular the powers and directions contained in our commission to our captain-general and governor-in-chief, according to such instructions as he has already received from us, and such further orders and instructions as he, or you, shall hereafter receive 20 from us.

And we do hereby command all and singular our officers, ministers, and loving subjects in our said province, and all others whom it may concern, to take due notice hereof, and to give their ready obedience accordingly.

Given at our court at St. James's the seventh of April, 1766, in the sixth year of our reign.

By His Majesty's command,

(Signed) H. S. CONWAY.

GUY CARLETON, Esquire,

Lieutenant Governor of Quebec.

30      Entered as follows.

Entered at the Treasury.

(Signed) THOS. TOMKYNS.

Entered in the office of the Lords Commissioners for Trade and Plantations.

(Signed) S. BRADBURY.



**No. 3.**

COMMISSION TO FREDERICK HALDIMAND, ESQUIRE, AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF THE PROVINCE OF QUEBEC, DATED 18TH SEPTEMBER, 1777.

(Book "Quebec Commissions, etc., from 1775 to 1797." Page 33.)

GEORGE the THIRD, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c., to our trusty and well-beloved Frederick Haldimand, Esquire,

GREETING :

10 Whereas we did by our Letters Patent, under our great Seal of Great Britain, bearing date at Westminster the twenty-seventh day of September, in the fifteenth year of Our Reign, constitute and appoint Guy Carleton, Esquire (now Sir Guy Carleton, Knight of the Bath), to be our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America, comprehending all our Territories, Islands and Countries in North America, bounded on the south by a line from the Bay of Chaleurs along the Highlands which divide the Rivers that empty themselves in the River Saint Lawrence from those which fall into the Sea to a point in forty-five degrees of Northern Latitude on the Eastern bank of the River Connecticut, keeping the same Latitude directly West through  
 20 the Lake Champlain until, in the same Latitude, it meets with the River Saint Lawrence; from thence up the Eastern Bank of the said River to the Lake Ontario; thence through the Lake Ontario and the River commonly called Niagara; and thence along by the Eastern and South Eastern Bank of Lake Erie, following the said Bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province until the said Western Boundary strikes the Ohio; but in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank until it shall arrive at that point of the said Bank which shall be nearest to the North Western  
 30 Angle of the said province of Pennsylvania, and thence by a right line to the said North Western Angle of the said Province, and thence along the Western Boundary of the said Province until it strikes the River Ohio, and along the Bank of the said River Westward to the Banks of the Mississippi, and Northward along the Eastern Bank of the said River to the Southern Boundary of the Territory granted to the Merchants Adventurers of England trading to Hudson's Bay; and also all such Territories, Islands and Countries which have since the tenth of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, together with all the Rights, Members and Appurtenances whatsoever thereunto belonging.



NOW KNOW YOU that we have revoked and determined, and do by these presents revoke and determine the said recited Letters Patent and every clause, article and thing therein contained,

AND FURTHER KNOW YOU that we reposing especial trust and confidence in the prudence, courage and loyalty, of you the said Frederick Haldimand, of our especial grace, certain knowledge and mere motion have thought fit to constitute and appoint you, the said Frederick Haldimand, to be our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America, comprehending all our Territories, Islands and Countries in North America, bounded on  
10 the South by a line from the Bay of Chaleurs along the high lands which divide the Rivers that empty themselves into the River Saint Lawrence from those which fall into the Sea to a point in forty-five degrees of Northern Latitude on the Eastern Bank of the River Connecticut, keeping the said Latitude directly West through the Lake Champlain until in the same latitude it meets with the River Saint Lawrence, from thence up the Eastern Bank of the said River to the Lake Ontario, thence through the Lake Ontario and the River commonly called Niagara, and thence along by the Eastern and South Eastern Bank of the Lake Erie, following the said Bank until the same shall be intersected by the Northern Boundary granted by the Charter of the Province of Pennsylvania in case the same  
20 shall be so intersected, and from thence along the said Northern and Western Boundaries of the said Province until the said Western Boundary strikes the Ohio. But in case the said Bank of the said Lake shall not be found to be so intersected then following the said Bank until it shall arrive at that point of the said Bank which shall be nearest to the North Western Angle of the said Province of Pennsylvania, and thence by a right line to the said North Western Angle of the said Province, and thence along the Western Boundary of the said Province until it strikes the River Ohio, and along the Bank of the said River Westward to the Banks of the Mississippi, and northward along the Eastern Bank of the said River to the Southern Boundary of the Territory granted to the Merchants Adventurers of England  
30 trading to Hudson's Bay, and also all such Territories, Islands and Countries which have since the tenth of February, One thousand seven hundred and sixty-three, been made a part of the Government of Newfoundland, together with all the Rights, Members and Appurtenances whatsoever thereunto belonging. AND we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present Commission and the Instructions and Authorities herewith given unto you, or by such further powers, Instructions and Authorities as shall at any time hereafter be granted or appointed you under our signet and Sign Manual, or by Our Order in our Privy  
40 Council, and according to such ordinances as shall hereafter be made and agreed



upon by you with the advice and consent of the Council of our said Province under your Government, in such manner and form as is hereinafter expressed.

AND our will and pleasure is that you the said Frederick Haldimand do after the publication of these our Letters Patent, in such manner and form as has been accustomed to be used on like occasions, in the first place take the oaths appointed to be taken by an Act passed in the first year of the Reign of King George the First, intituled : " An Act for the further security of His Majesty's person and Government, " and the succession of the Crown in the Heirs of the late Princess Sophia, being " Protestants, and for extinguishing the hopes of the pretended Prince of Wales and 10 " all his open and secret abettors," and by an Act passed in the sixth year of our Reign intituled : " An Act for altering the Oath of Abjuration and the assurance, " and for amending so much of an Act of the seventh year of Her late Majesty Queen Anne, intituled : ' An Act for the improvement of the Union of the two Kingdoms,' as " after the time therein limited required the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason ; " as also that you make and subscribe the Declaration mentioned in an Act of Parliament, made in the twenty-fifth year of the Reign of King Charles the Second, intituled, " An Act for " preventing dangers which may happen from Popish Recusants," and likewise that you take the Oath usually taken by Governors in the plantations for the due execution of 20 the Office and Trust of our Captain-General and Governor in and over our said Province, and for the due and impartial administration of justice ; and further, that you take the Oath required to be taken by Governors of the plantations to do their utmost that the several laws relating to trade, and the plantations, be duly observed, which said Oaths and Declaration our Council of our said Province, or any three of the Members thereof, have hereby full power and authority, and are required to tender and administer unto you, all which being duly performed you shall yourself administer to each of the Members of our said Council (except as hereinafter excepted) the said Oaths mentioned in the said Act, intituled : " An Act for the further security of His " Majesty's person and Government, and the succession of the Crown in the Heirs of 30 " the late Princess Sophia, being Protestants, and for extinguishing the hopes of the " pretended Prince of Wales and his open and secret abettors " ; And " An Act for " altering the Oath of Abjuration and the assurance, and for amending so much of an " Act of the seventh year of Her late Majesty, Queen Anne, intituled : ' An Act for " the Improvement of the Union of the two Kingdoms,' as after the time therein limited " required the delivery of certain Lists and Copies therein mentioned to persons " indicted of High Treason or Misprision of Treason," as also cause them to make and subscribe the aforementioned Declaration and to administer to them the usual Oaths for the due execution of their places and trusts.

AND WHEREAS we may find it expedient for our service that our Council of our 40 said Province may be in part composed of such of our Canadian subjects, or their des-



cendants, as remain within the same under the faith of the Treaty of Paris, and who may profess the religion of the Church of Rome, IT IS therefore our will and pleasure that in all cases where such persons shall or may be admitted into our said Council or into any other offices, they shall be exempted from all tests and from taking any other oath than that prescribed in and by an Act of Parliament passed in the fourteenth year of our Reign, intituled : " An Act for making more effectual provision for " the Government of the Province of Quebec in North America " ; and also the usual oath for the due execution of their places and trusts, respectively.

AND WE DO further give and grant you, the said Frederick Haldimand, full power and authority from time to time and at any time hereafter, by yourself, or by any other to be authorized by you in that behalf, to administer and give the oaths mentioned in the said Acts intituled: " An Act for the further security of His " Majesty's person and Government, and the succession of the Crown in the " Heirs of the late Princess Sophia, being Protestants, and for extinguishing the " hopes of the pretended Prince of Wales and his open and secret abettors," and " An Act for altering the Oath of Abjuration and the Assurance, and for the " amending of so much of an Act of the seventh year of Her late Majesty, Queen " Anne, intituled : ' An Act for the improvement of the Union of the two King- " doms,' as, after the time therein limited, required the delivery of certain Lists 20 " and Copies therein mentioned to persons indicted of High Treason or Misprision " of Treason," to all and every such person or persons, as you shall think fit, who shall at any time or times pass into our said Province or shall be resident or abiding there.

AND WE DO HEREBY authorize and empower you to keep and use the public Seal of our Province of Quebec for sealing all things whatsoever that shall pass the Great Seal of our said Province.

AND WE DO HEREBY GIVE and grant unto you the said Frederick Haldimand full power and authority with the advice and consent of our said Council, to make Ordinances for the peace, welfare and good government of the said Province and of 30 the people and inhabitants thereof and such others as shall resort thereunto, and for the benefit of our Heirs and Successors, PROVIDED ALWAYS that nothing herein contained shall extend or be construed to extend to the authorizing and empowering the passing of any ordinance or ordinances for laying any taxes or duties within the said Province, such rates and taxes only excepted as the Inhabitants of any Town or District within our said Province may be authorized by any ordinance passed by you with the advice and consent of the said Council to assess, levy and apply within the said Town or District, for the purpose of making Roads, erecting and repairing public Buildings or for any other purpose respecting the local convenience and economy of such Town or District. PROVIDED also that every ordinance so to be made by you by 40 and with the advice and consent of the said Council shall be within six months from



the passing thereof transmitted to us under our Seal of our said Province for our approbation or disallowance of the same, as also duplicates thereof, by the next conveyance, and in case any or all of the said ordinances shall at any time be disallowed and not approved, and so signified by us our Heirs and Successors, by order in their or our Privy Council, unto you the said Frederick Haldimand, or to the Commander-in-Chief of our said Province for the time being, then such and so many of the said ordinances as shall be so disallowed and not approved, shall from the promulgation of the said Order in Council within the said Province, cease, determine and become utterly void and of no effect, PROVIDED also that no ordinance touching religion or  
 10 by which any punishment may be inflicted greater than fine or imprisonment for three months, shall be of any force or effect until the same shall have been allowed and confirmed by us, our Heirs and Successors and such allowance or confirmation signified to you or to the Commander-in-Chief of our said Province for the time being by their or our order in their or our Privy Council, PROVIDED also that no Ordinance shall be passed at any meeting of the Council where less than a majority of the whole Council is present, or at any time, except between the first day of January and the first day of May, unless upon some urgent occasion, in which case every member thereof resident at the Town of Quebec, or within fifty miles thereof, shall be personally summoned to attend the same. And to the end that nothing may be  
 20 passed or done by our said Council to the prejudice of our heirs and successors,  
 WE WILL and ordain that you the said Frederick Haldimand shall have and enjoy a negative voice in the making and passing of all Ordinances as aforesaid.

AND we do by these presents give and grant unto you the said Frederick Haldimand full power and authority, with the advice and consent of our said Council, to erect, constitute and establish such and so many Courts of Judicature and public justice within our said Province under your Government as you and they shall think fit and necessary, for the hearing and determining of all causes as well criminal as civil, and for awarding execution thereupon, with all reasonable and necessary powers, authorities, fees and privileges belonging thereunto ; as also to appoint and  
 30 commissionate fit persons in the several parts of your Government to administer the Oaths mentioned in the aforesaid Acts, intituled : " An Act for the further security " of His Majesty's person and Government, and the succession of the Crown in the " Heirs of the late Princess Sophia, being Protestants, and for the extinguishing the " hopes of the pretended Prince of Wales and his open and secret abettors " and " An Act for altering the Oath of Abjuration and the assurance, and for amending " so much of an Act of the seventh year of Her late Majesty Queen Anne, intituled : " An Act for the improvement of the Union of the two Kingdoms," as after the " time therein limited required the delivery of certain lists and copies therein " mentioned to persons indicted of High Treason or Misprision or Treason," as also  
 40 to tender and administer the aforesaid declaration to such persons belonging to



the said Courts as shall be obliged to take the same. AND we do hereby grant unto you full power and authority to constitute and appoint Judges, and, in cases requisite, Commissioners of Oyer and Terminer, Justices of the Peace, Sheriffs and other necessary Officers and Ministers in our said Province, for the better administration of justice and putting the laws in execution; and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in Judicial Causes. AND we do hereby give and grant unto you full power and authority, where you shall see cause, or shall judge any offender or offenders 10 in criminal matters, or for any fines or forfeitures due unto us, fit objects of our mercy, to pardon all such offenders and remit all such offences, fines and forfeitures, treason and wilful murder only excepted; in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our Royal pleasure may be known therein; AND we do by these presents give and grant unto you full power and authority to collate any person or persons to any Churches, Chapels or other ecclesiastical benefices within our said Province as often as any of them shall happen to be void.

AND we do hereby give and grant unto you, the said Frederick Haldimand, by yourself or by your Captains or Commanders, by you to be authorized, full power 20 and authority to levy, arm, muster, command and employ all persons whatsoever residing within our said Province, and as occasion shall serve them to march, embark or transport from one place to another for the resisting and notwithstanding of all enemies, pirates and rebels, both at land and sea, and to transport such forces to any of our plantations in America, if necessity shall require, for the defence of the same against the invasion or attempt of any of our enemies, and such enemies, pirates and rebels, if there shall be occasion to pursue, and prosecute in and out of the limits of our said Province, and if it shall so please God them to vanquish, apprehend and take, and being taken, according to law to put to death, or keep and preserve alive at your discretion, and to execute Martial Law in time of Invasion, War or any 30 other times where by law it may be executed, and to do and execute all and every other thing and things which to our Captain-General and Governor-in-Chief doth or of right ought to belong; AND we do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council to erect, raise and build in our said Province such and so many forts, platforms, castles, cities, boroughs, towns and fortifications as you by the advice aforesaid shall judge necessary, and the same or any of them to fortify and furnish with ordnance, ammunition and all sorts of arms fit and necessary for the security and defence of our said Province, and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient. AND forasmuch 40 as divers mutinies and disorders may happen by persons shipped and employed at

Power to Haldimand to levy men etc by  
his personal Act -  
but required the Act of Council to erect  
Fort & to grant lands

Power to Governor Haldimand by advice of his  
Council to erect fortifications etc

sea during the time of war, and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered, we do hereby give and grant unto you the said Frederick Haldimand full power and authority to constitute and appoint Captains, Lieutenants, Masters of Ships and other Commanders and Officers, and to grant to such Captains, Lieutenants, Masters of Ships and other Commanders and Officers, Commissions to execute the law martial during the time of war, according to the directions of an Act passed in the twenty-second year of the Reign of our late Royal Grandfather, intituled: "An Act for amending, explaining and reducing into one Act of Parliament the laws relating to the Government of His Majesty's ships, vessels and forces by sea," and to use such proceedings, authorities, punishments, corrections and executions upon any offender or offenders who shall be mutinous, seditious, disorderly or in any way unruly, either at sea or during the time of their abode or residence in any of the Ports, Harbours or Bays in our said Province, as the case shall be found to require, according to Martial Law, and the said directions, during the time of war, as aforesaid. Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offence, cause, matter or thing committed or done upon the High Sea or within any of the Havens, Rivers or Creeks of our said Province under your Government by any Captain, Commander, Lieutenant, Master, Officer,

20 Seaman, Soldier or person whatsoever who shall be in actual service and pay in or on board any of our ships of war or other vessels acting by immediate Commission or Warrant from our Commissioners for executing the office of our High Admiral of Great Britain or from our High Admiral of Great Britain for the time being under the Seal of our admiralty, but that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other person so offending shall be left to be proceeded against and tried as their offences shall require either by Commission under our Great Seal of this Kingdom as the Statute of the twenty-eighth of Henry the Eighth directs, or by Commission from our said Commissioners for executing the office of High Admiral of Great Britain, or from our High Admiral of Great Britain

30 for the time being, according to the aforementioned Act, intituled "An Act for amending, explaining and reducing into one Act of Parliament the laws relating to the Government of His Majesty's Ships, vessels and forces by sea," and not otherwise.

PROVIDED, nevertheless, that all disorders and misdemeanors committed on shore by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or any other person whatsoever belonging to any of our ships of war, or other vessels acting by immediate Commission or warrant from our Commissioners for executing the office of High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being, under the Seal of our Admiralty, may be tried and punished according to the laws of the place where any such disorders, offences and misdemeanors shall be committed on shore, notwithstanding such offender be in our actual service and borne



in our pay on board any such our Ships of War, or other vessels acting by immediate Commission or Warrant from our Commissioners for executing the Office of High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being, as aforesaid, so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our Service at Sea.

AND our further will and pleasure is that all public monies granted and raised for the public use of our said Province be issued out by warrant from you by and with the advice and consent of Our Council, as aforesaid, for the support of the Government, and not otherwise.

AND we likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the inhabitants of our said Province for such Lands, Tenements and Hereditaments, as now are or hereafter shall be, in our power to dispose of, and them to grant to any person or persons, upon such terms and under such moderate Quit-rents, Services and Acknowledgments to be thereupon reserved unto us as you with the advice aforesaid shall think fit, which said grants are to pass and be sealed by our Public Seal of our said Province, and being entered upon record by such officer or officers as shall be appointed thereunto, shall be good and effectual in law against us, our Heirs and Successors.

20 AND we do hereby give you, the said Frederick Haldimand, full power and authority to order and appoint Fairs, Marts and Markets, as also such and so many Ports, Harbours, Bays, Havens and other places for the conveniency and security of shipping, and for the better loading and unloading of goods and merchandizes, in such and so many places as by you with the advice and consent of our said Council shall be thought fit and necessary.

AND we do hereby require and Command all Officers and Ministers, Civil and Military, and all other inhabitants of our said Province, to be obedient, aiding and assisting unto you the said Frederick Haldimand in the execution of this our Commission and of the powers and authorities therein contained; and in case of your death or absence from our said Province and Government to be obedient, aiding and assisting as aforesaid to the Lieutenant-Governor or Commander-in-Chief for the time being, to whom we do therefore by these presents give and grant all and singular the powers and authorities herein granted, to be by him executed and enjoyed during our pleasure or until your arrival within our said Province. AND if upon your death or absence out of our said Province there be no person upon the place commissionated or appointed by us to be Lieutenant-Governor or Commander-in-Chief of our said Province, our Will and Pleasure is that the eldest Councillor being a natural born subject of Great Britain, Ireland or the Plantations, and professing the Protestant Religion, who shall be, at the time of your death or absence, residing within our said Province

power to grant lands

shall take upon him the administration of the Government and execute our said Commission and Instructions and the several powers and authorities therein contained, in the same manner and to all intents and purposes as other our Governor and Commander-in-Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein.

AND we do hereby declare, Ordain and Appoint that you the said Frederick Haldimand shall and may hold execute and enjoy the office and place of our Captain-General and Governor-in-Chief in and over our said Province of Quebec and all the Territories dependant thereupon, with all and singular the powers and authorities 10 hereby granted unto you for and during our Will and Pleasure.

IN WITNESS whereof we have caused these our Letters to be made Patent. Witness ourself at Westminster, the eighteenth day of September, in the Seventeenth year of our Reign. 1777

BY THE KING HIMSELF.

(Signed) YORKE.

Entered the 1st September, 1778.

(Signed) J. WILLIAMS, C. C.

#### No. 4.

ADDITIONAL INSTRUCTIONS TO GOVERNOR HALDIMAND, DATED  
20 16TH JULY, 1783.

GEORGE R:

ADDITIONAL INSTRUCTIONS TO OUR TRUSTY AND WELL-BELOVED FREDERICK HALDIMAND, Esquire, our Captain-General and Governor-in-Chief of our Province of Quebec in America, or to the Commander in Chief of the Province for the time being. Given at our Court at St. James's, the Sixteenth day of July, 1783, in the twenty-third year of our reign.

Whereas many of our loyal subjects, inhabitants of the Colonies and Provinces, now the United States of America, are desirous of retaining their allegiance to Us and of living in our Dominions, and for this purpose are disposed to take up and 30 improve lands in our Province of Quebec; and we being desirous to encourage our said loyal subjects in such their intentions and to testify our approbation of their loyalty to us and obedience to our Government, by allotting lands for them in our said Province.



And Whereas we are also desirous of testifying our approbation of the bravery and loyalty of our Forces serving in our said Province, and who may be reduced there, by allowing a certain quantity of land to such of the non-commissioned officers and privates, men of our own Forces, who are inclined to become settlers therein, It is our will and pleasure that immediately after you shall receive this instruction you do direct our Surveyor-General of lands for our said Province of Quebec, to admeasure and lay out such a quantity of land as you, with the advice of our Council, shall deem necessary and convenient for the settlement of our said loyal subjects, and the non-commissioned officers and privates, men of our Forces, which may be reduced 10 in our said Province, who shall be desirous of becoming settlers therein ; such land to be divided into districts, seigniories, or fiefs, to extend from two to four leagues in front, and from three to five leagues in depth, if situate upon a navigable river, otherwise to run square, or in such shape, or in such quantities, as shall be convenient and practicable, and in each seigniorie a glebe to be reserved and laid out in the most convenient spot, to contain not less than 300 nor more than 500 acres ; the propriety of which seigniories or fiefs shall be and remain vested in us, our heirs and successors, and you shall allot such part of the same as shall be applied for by any of our said loyal subjects, non-commissioned officers and privates, men of our Forces reduced as aforesaid, in the following proportions, that is to say :

20 To every master of a family, one hundred acres, and fifty acres for each person of which his family shall consist.

To every single man, fifty acres.

To every non-commissioned officer of our Forces reduced in Quebec, two hundred acres.

To every private man reduced as aforesaid, one hundred acres.

To every person in their family, fifty acres.

The said lands to be held under us, our heirs and successors, seigniors of the said seigniories or fiefs in which the same shall be situated, upon the same terms, acknowledgments and services, as lands are held in our said Province under the respective 30 seigniors, holding and possessing seigniories or fiefs therein, and reserving to us our heirs and successors, from and after the expiration of ten years from the admission of the respective tenants, a quit rent of one half penny per acre.

It is our further will and pleasure, that every person within the meaning of this our instruction, upon their making application for land shall take the oath directed by law before you or our Commander-in-Chief for the time being, or some person by him or you authorized for that purpose, and shall also at the same time make and subscribe the following declaration, viz.:—“ *I A. D. do promise and declare that I will maintain and defend to the utmost of my power the authority of the King in His*



"Parliament as the Supreme Legislature of this Province."—Which oaths and declaration shall also be taken and subscribed by every future tenant, before his, her or their admission upon Alienation, Descent, Marriage, or any otherwise howsoever, and upon refusal, the Lands to become vested in Us, our heirs and successors. And it is our further will and pleasure, that the expense of laying out and surveying as well the seigniories or fiefs aforesaid as the several allotments within the same, and of the Deed of Admission within the same, shall be paid by the Receiver-General of our Province in the said Province of Quebec, out of such moneys as shall be in his hands upon a certificate from you or our Commander-in-Chief for the time being, in Council, Oath being made by our Surveyor-General to the account of such expense, provided that only one-half of the usual and accustomed fees of office shall be allowed to our said Surveyor-General or any other of our Officers in the said Province entitled thereunto upon any survey or allotment made or upon admission into any lands by virtue of this our instruction.

And it is our will and pleasure that a record be kept in the Office of the Receiver-General of our Province of every admission into lands as well by virtue of this our instruction as in cases of future admission by alienation or otherwise, a docket of which shall be transmitted yearly to us, through one of our Principal Secretaries of State and also a duplicate thereof to our High Treasurer or the Commissioner of our Treasury for the time being.

(Signed) G. R.

## No. 5.

### FURTHER INSTRUCTION TO GOVERNOR HALDIMAND, DATED 7TH AUGUST, 1783.

Additional instructions to our Trusty and Well-Beloved Frederick Haldimand, Esquire, Our Captain-General and Governor-in-Chief of our Province of Quebec in America or to the Commander-in-Chief of the said Province for the time being. Given at our Court at St. James's, the Seventh day of August, 1783, in the twenty-third year of our Reign.

Whereas by our additional instructions to you, bearing date the sixteenth day of July last, you are authorized and empowered to allot certain portions of the land within the seigniories to be surveyed and laid out in the Province of Quebec by virtue of the said instructions, and to remain vested in us our heirs and successors, to such of the non-commissioned officers and privates of our Forces who should be reduced



in our said Province. And whereas we are desirous of testifying our entire approbation of the loyalty, suffering and services of the Commissioned Officers of our Provincial Troops, who may be so reduced, it is therefore our will and pleasure that upon application of such of the said commissioned officers who shall be willing immediately to settle and improve lands in our said Province, you do allot such part of the seigniories to be surveyed and laid out as aforesaid in the following proportions, that is to say:—

To every field officer.....	1,000 acres.
To every Captain.....	700 "
10 To every subaltern, staff or warrant officer.....	500 "

exclusive of fifty acres for each person of which the family of such officer shall consist, to be held of us our heirs and successors, Seigneurs, upon the same terms acknowledgments, services, reserved rents and remissions as in the said recited additional instructions are mentioned and expressed.

And it is our will and pleasure that when the same is practicable, that the allotments of the non-commissioned officers and privates of each Provincial Corps to be reduced in our said Province under our said additional instructions shall be interspersed therein, that the several settlements may be thereby strengthened and united, and in case of attack be defended, by those who have been accustomed to 20 bear arms and serve together.

And Whereas many of our loyal and deserving subjects have taken arms and associated themselves in the Provinces, now the United States of America for the support of our Government and authority under the name of Associated Loyalists, without being put upon any particular Establishment, many of whom may take refuge in our Province of Quebec, it is our will and pleasure that the commissioned and non-commissioned officers and privates of the said Associated Loyalists shall be in every respect entitled to the same allotments of land, and every encouragement intended and given by our said additional instructions to the non-commissioned officers and privates of our said Forces who shall be reduced in our said Province, 30 and by this our instruction to the commissioned officers of our Provincial Forces who shall be so reduced.

(Signed) G. R.

All persons entitled to land in the Province of Quebec in consequence of His Majesty's instructions aforesaid will upon their taking the following oaths receive certificates signed by His Excellency the Governor specifying the townships and numbers of the lots of lands they shall draw, for which they shall receive regular grants at the expiration of twelve months from the date of the certificates, provided the lands shall be settled by them agreeably to His Majesty's orders signified by the



following paragraph in a letter from the Right Honourable Lord North dated the 24th July, 1783 :

" It is certainly an object of the utmost importance to the future welfare of Quebec that no person should be permitted to settle thereon, but those of approved loyalty. For this purpose His Majesty has thought it expedient that the declaration mentioned in the instructions should be made and subscribed by all persons who shall apply for lands. I must therefore recommend to your particular attention that the same be tendered upon every application and I must also desire that you will be careful that no lands be in any instance allotted but to those who actually 10 " settle and improve the same without delay."

The Oath of Allegiance.

The Oath of Supremacy.

The Oath of Abjuration and Declaration.

## No. 6.

### LICENSE FROM LIEUTENANT-COLONEL DEPEYSTER TO MESSRS. STREET AND McLAUGHLIN, DATED 10TH AUGUST, 1784.

By the authority I have received from General Haldimand, Governor and Commander-in-Chief in and over the Province of Canada and the frontiers thereof,

I do transfer two parcels of land (formerly granted to Mr. Isaac Dolsen by 20 Brigadier-General Powell) to Messrs Street and McLaughlin the first parcel measuring fifty-eight chains and a half West in length and seventeen and a half South in breadth, bounded on the South by Niagara River and on the West by Mount Pleasant, containing one hundred and six acres of land. The second parcel measuring fifty chains West in length and twenty South in breadth situated on the top and close to the brow of said Mount Pleasant and Niagara River, containing one hundred acres of land making altogether two hundred and six acres, but the condition of this permission is such that the said Messrs. Street and McLaughlin, their heirs, executors, administrators and assigns, shall hold said lands upon the tenor of His Majesty's additional instructions to His Excellency the Commander-in-Chief of the Province of 30 Quebec, bearing date at St. James's, the sixteenth day of July and the seventh day of August, one thousand seven hundred and eighty-three.

*See ante page 19*

Ans 8<sup>th</sup> July 1783. page 19  
7 Augt 1783 page 21

Given under my hand and seal at Niagara, the tenth day of August, One thousand seven hundred and eighty-four.

We agree to the above

(Signed)

N. S. DEPEYSTER, L.S.

conditions,

*Lt. Col. Commanding*

### *the Upper Posts.*

(Signed) SAMUEL STREET,  
JOHN McLAUGHLIN.

### **Witnesses present**

(Signed) WILLIAM CHALMERS.

THOS. LOVELESS.

10

No. 7.

MINUTES OF COUNCIL OF THE PROVINCE OF QUEBEC RELATING TO  
ERECTION OF MILLS; WITH ADVERTISEMENT AND SCHEDULE  
ATTACHED; DATED 14<sup>TH</sup> FEBRUARY, 1786.

(Book "Quebec Privy Council, D." Page 237.)

## AT THE COUNCIL CHAMBER IN THE BISHOP'S PALACE,

On Tuesday, the 14th of February, 1786.

## PRESENT:

The Honourable Henry Hope, Esquire, Lieutenant-Governor.

20	" Hugh Finlay, " François Levesque, " John Collins, " George Pownall, " Conrad Gugy, " John Fraser, " Paul Roi St. Ours, " Joseph de Longueuil,	James Cuthbert, Edward Harrison, Adam Mabane, J. G. C. de Léry, Picoté de Belestre, Henry Caldwell, François Baby, Samuel Holland, Esquires.
----	--	---

The Lieutenant-Governor signified to the Council that he had been applied to by a great number of the Loyalists fixed at Cataraqui and other parts of the upper 30 settlements, to get mills erected in the respective seigniories where they had settled themselves in. That he conceded there might be assigned substantial reasons why His Majesty should decline, for the present, incurring the expenses which must attend the building of the several mills demanded. That he thought it advisable to propose to the settlers that they should build the necessary mills at their own expense; and in order to indemnify them for the charges which they will incur thereby, to give them the right of Bannalit  for a certain term of years. To facilitate the Council in this business, His Honour laid before them the draught of an advertisement which he had himself prepared to that effect, and which was read in English



and French. His Honour then laid before the Council an Abstract of the number of Loyalists settled upon the different seigniories, by which they perceived that it is highly just and proper that they should be accommodated with a mill in each seigniory, but they were unanimously of opinion that Government should decline so chargeable an undertaking, and recommended to His Honour to treat with the settlers to the effect stated in the draught. Read the same a second time in English and French, paragraph by paragraph. And upon reading the paragraph which reserves to His Majesty the power of resuming the rights of Bannalit  at any time within the period of fifteen years, Resolved that the question be put "whether that 10 paragraph shall stand or not," and being put, the voices standing 9 ayes and 8 noes Voted in the affirmative.

Votes upon the Question :—

	Ayes.	Noes.
Mr. Holland.....	1	
Mr. Longueuil.....	1	
Mr. Baby.....	2	
Mr. St. Ours.....	3	
Col. Caldwell .....	4	
Mr. Fraser.....	2	
Mr. Belestre .....	5	
20 Mr. Gugy .....	6	
Mr. de L�ry.....	7	
Mr. Pownall.....	3	
Mr. Mabane.....	4	
Mr. Collins... .....	5	
Mr. Harrison.....	6	
Mr. Levesque .....	8	
Mr. Cuthbert.....	7	
Mr. Finlay.....	8	
The Lieutenant Governor.....	9	

30 Having settled the advertisement, it was ordered to be engrossed and sent to the printer to be inserted in the next *Quebec Gazette* :—

SECRETARY'S OFFICE,

QUEBEC, 14th February 1786.

SEVERAL APPLICATIONS HAVING BEEN MADE TO HIS HONOUR THE  
LIEUTENANT-GOVERNOR FOR LEAVE TO ERECT MILLS  
IN THE NEW SETTLEMENTS:

NOTICE is hereby given by the Lieutenant-Governor and Commander-in-chief of this province, by and with the advice of His Majesty's Council thereof, that right will be granted to a person or persons to erect a mill in each seigniory or township, in the situation best adapted for that purpose for the use of the settlers; which person



or persons shall for a limited time enjoy the Rights of Seignior in everything regarding the mill, according to the laws and customs of this province, as a reward for his or their trouble, and as a full compensation for the expense thereby incurred, on the following terms and conditions :—

Certain places in each Seigniory or Township having been pitched upon, which in the opinion of judges are best adapted by their situations and advantages to have mills erected thereon, the holder of the lot in which such spot or place is situated, shall be in preference authorized by himself or in company with such other persons as he may find necessary for that purpose to associate with him in the undertaking, 10 to erect a Grist-mill for the use of the Seigniory or Township under the conditions hereinafter recited :

I. That a Grist-mill sufficient in all respects for the use of the settlers in the Seigniory or Township shall be erected and held in readiness for that use on or before the first day of November next.

II. That the said mill shall be kept in constant repair and attended on by the persons necessary to grind the grain of the settlers.

III. That in consideration of the due performance of the above conditions, the persons engaging and binding themselves thereto shall enter into the enjoyment of all the rights and privileges which His Majesty holds as Seigneur with respect to Mills, 20 according to the laws and customs of this province, under the following provisos,—

*at 15 years*  
That at the expiration of fifteen years His Majesty shall resume the seigniorial rights of Bannalité, and that the mills, together with all necessary buildings, &c., thereto appertaining, erected in consequence of the agreement, shall then be delivered up to His Majesty without any right or claim to compensation from the builders in consideration thereof.

In Lower Canada, mills are often erected in this way, the undertaker enjoying the privilege from the seignior for ten years ; but in consideration of the situations and circumstances of the settlers, for their greater encouragement, the term will be extended to the period of fifteen years.

30 That if at any period before the term of fifteen years is elapsed, it shall be found expedient for His Majesty to resume the rights of bannalité, it shall be lawful so to do. And in that case a just and equitable compensation shall be allowed to the undertakers under the agreement, to be given according to the opinion of five persons, two of whom shall be named on the part of His Majesty, two by the possessors of the mills, and the fifth by the first four, as well for the first cost of erecting the mills as in consideration of a reasonable profit to be derived from the undertaking.

For the greater encouragement of the undertaker, one batteau, properly manned, will be allowed, at His Majesty's expense, to make one trip to carry up from La Chine the mill stones, &c., for the use of each mill.

(1786)

Preference to the holder of the lot, for  
the advantages to have the Mill  
erected

— See also to Dunbar and  
Tilas Carter at page 149

All persons willing to undertake the erection of a grist-mill in each seigniory or township, the holder of the lot upon which the mill is to be erected having always the preference, are immediately to signify the same through the usual channel of their inspectors; those for the seigniories or townships of Johnstown and Oswegatchie to Stephen Delancey, Esquire; those for the seigniories or townships depending on Cataraqui to Neil M'Lean, Esquire, Deputy-inspector; And if approved of by the Lieutenant-Governor and Commander-in-chief, they are to be ready to enter into an agreement, on the above terms, with the inspectors, at the above mentioned places, and to give good and sufficient security to them, on the part of His Majesty, for the 10 due performance thereof, on or before the tenth day of May next.

Right will be granted on the same conditions to erect mills at the settlements near Niagara and Fort Erie. The commanding officer will be authorized to receive the proposals and ratify the agreements on the part of His Majesty.

By His Honour the Lieutenant-Governor's Command.

GEO. POWNALL, Secry.

PLACES POINTED OUT FOR ERECTING MILLS.

Settlement.	Township.	Kind of Mill.	Lot.	Remarks.
New Johnstown.	Lake Township.	Wind Mill.	No.	Point Johnstown.
	Nº 1.	do	21.	
	2.	Water Mill.	6.	
	3.	do	34.	
	4.	do	26.	
New Oswegatchie.	5.	Wind Mill.	25.	
	6.	Water Mill.		At the Galleaux. To be more fully described by Stephen Delancey, Esq.
	7.	do		
	8.	do		
Cataraqui.	2.	Water Mill.	18.	Mill Creek.
	3.	do	18.	Mill now building by Mr. Collins under a sanction formerly given by Lieut.-Governor Hamilton.
	4.	Wind Mill.		To be particularly described by the Inspector, or pointed out by the heads of the township.
	5.	do		Point Pleasant.
		Water Mill.		At the Falls, above the 12-mile Pond, 10 miles from the Lake, and 16 from the Garrison.
Niagara.		do		Between the Great Falls and Chipeaway Creek. <i>✓</i>

See map 52  
and 106

# Niagara and Fort Erie

x See how this came down at 9<sup>th</sup> May

**No. 8.**

INSTRUCTIONS FROM LORD DORCHESTER, GENERAL AND COMMANDER-IN-CHIEF IN BRITISH AMERICA, TO CAPTAIN GOTHER MANN,  
COMMANDING ENGINEER, TO REPORT UPON CONDITION  
OF CERTAIN OF THE UPPER POSTS, DATED  
29TH MAY, 1788.

HEAD QUARTERS, QUEBEC, 29th May, 1788.

Instructions

To Captain Mann, Commanding Engineer.

10 Whereas it is expedient for the King's service, that the fortifications at Ontario, Niagara, Erie, Detroit, and Michilimakinac, be kept in a proper state of defence, you are hereby ordered and directed to proceed without loss of time to these several posts, thoroughly to survey and report their condition, estimating the probable expense that may attend such repairs or alterations, as you shall recommend, and whether the garrisons which now occupy them are sufficient, or what number of men you think necessary for their defence.

Doubts being entertained whether Carleton Island or Kingstown is the most eligible station for the King's ships of war to protect the navigation of Lake Ontario and the upper part of the river Saint Lawrence, you will make this particularly an 20 object of your attention, and report how far it may be necessary to occupy either, or both, and what works you judge advisable for that purpose.

You will inform yourself concerning the best communication from the upper part of Lake Ontario to the lower end of Lake Erie on this side of the water, with the most convenient and safe ports for embarking and disembarking at each end of the communication, where boats and armed vessels may be well covered against rough weather; or the attempts of an enemy, should the present carrying place and Fort Niagara fall into such hands. You will particularly examine the ground reserved for such event opposite to the present Fort, and the height at Navy Hall with a view to fortify the same. To be prepared for the like event at Detroit you will examine 30 the point on this side at the entrance of the river, where there is a new settlement, and the Island Bois Blanc opposite to it.

Orders having been sent to Detroit to provide pickets in the course of the winter to renew the stockade which surrounds and connects the town with Fort Lernoult, if such provision has been made, you will without loss of time direct that work to be carried into execution, with such alterations as you shall judge necessary, giving the inspection thereof to Lieutenant Humphries, or if he cannot be spared to an officer of the garrison.



The entrance leading to Lake Superior, as far as the falls of Saint Mary, will be an object of your attention, to give an opinion whether there is any place near the foot of the falls fit for a post, or settlement, for the convenience of trade to Lake Superior; or whether Thessalon, the place formerly in contemplation, will better answer those purposes.

You will examine the mouth of French river, and that of River Matchadosh upon Lake Huron, likewise Toronto upon Lake Ontario, and give every information how far they will answer for shipping and of what size, whether the country adjacent is propitious for settlements, and if these, by the nature of the ground, can at a small expense be defended.

Besides these observations you will enquire what other ports there may be on this side of the different lakes offering similar advantages, what sort of vessels are best calculated for trade as well as for war on those waters, and to what ports each of the different kinds of vessels may navigate, and enter, on both sides of the lakes.

DORCHESTER.

## No. 9.

REPORT OF CAPTAIN MANN TO LORD DORCHESTER, DATED 6TH DECEMBER, 1788.

QUEBEC, 6th December, 1788.

20 MY LORD,

In obedience to your Lordship's Instructions to me, dated 29th May, 1788, wherein is specified that doubts being entertained whether "Carleton Island or "Kingston is the most eligible station for the King's Ships of War to protect the "navigation of Lake Ontario and the upper part of the River St. Lawrence, I am "to make this particularly an object of my attention, and report how far it may be "necessary to occupy either or both, and what works I judge adviseable for that "purpose:". I therefore lost no time in going into this investigation, but before I proceed to state the result, I would beg leave to premise, as well with respect to this as to other objects of my Instructions, that when speaking on subjects purely Naval, I cannot be supposed to do it with that confidence which might be expected from a professional man; what I have to say on this head must therefore be considered in some degree as a detail of such information as I have been able to procure, connected however with the observations I have myself made on the spot; but I do not on any account mean to insinuate that I shall shrink from giving an opinion of my own; on the contrary, I shall never advance any doctrine or opinions which I do not



myself think well founded. I shall therefore without further preface proceed to state to your Lordship such particulars as may be necessary to form a comparative view of the two posts here before mentioned.

With respect to KINGSTON, what is there generally called the Harbour, and where the town is laid out, is not the best situation on *this side* for vessels, as it lies rather open to the Lake, and has not very good anchorage near the entrance, so that they are obliged to run a good way up for shelter, and where there is but little water; they may however then lie safe; but the most eligible situation here for naval purposes is the Cove immediately to the Eastward; (marked A;) therefore in what I 10 shall have further to remark upon the properties of a Harbour here, this latter situation is to be understood as referred to.

It is remarked (speaking both of KINGSTON and CARLETON ISLAND) that the wind here blows from the Westward, upon an average, at least three fourths of the year, sometimes varying a few points either to the Northward or the Southward: it is said to have been observed that in general it is to the Southward of West in the Spring, and to the Northward of West in the Fall: in this case, from the different positions of Carleton Island and Kingston, as there is about two points of the compass difference in the course from thence in the open Lake; from the former it being nearly SW a little Westerly, and from the latter about 20 SSW, so that it should appear from the foregoing remark on the general state of the winds, that it is more favorable for getting into the Lake from Carleton Island in the Spring, and from Kingston in the Fall; the safety of the navigation is in either case nearly or quite equal; the distance also from either place into the Lake is nearly the same. Vessels may be sooner sheltered in the Harbour at Carleton Island than at Kingston, and on that account might be sooner warped in or out; but on the other hand it has been observed at Kingston that there is very frequently early in the morning a light Northerly land breeze, with which vessels may be carried out of the Harbour with great facility and dispatch: in either case, when they are clear of the Harbour, they must have a leading wind to 30 carry them into the Lake; they cannot beat up either from Carleton Island or Kingston, at least the present vessels cannot. The Harbours both at Kingston and Carleton Island are safe, commodious and well sheltered. The Neck (B) would perhaps be a good situation for storehouses and other naval buildings, but I am not quite satisfied that it could be in all respects equal to that at Carleton Island, the former in some places is low and wet, the greater part however is rocky: the latter is low, but it is a flat rock and dry; but the former is by no means a bad situation as far as may be requisite for naval purposes. There is sufficient depth in both Harbours for vessels of any moderate draft of water; but it is supposed, as well with respect to these two posts, as to the navigation of this Lake in general, that schooners of from 40 80 to 100 Tons would best answer the purpose: but if an enemy has also vessels



upon the Lake, then the nature and force of ours must I imagine be proportioned to the sort of vessels we may have to oppose.

Having now brought forward all the material information and observations I have been able to procure or make, and having duly weighed the several properties both of Kingston and Carleton Island relative to naval purposes only, it at present remains to draw that conclusion which the premises may seem to warrant. In doing this there appears some difficulty; many circumstances are very nicely balanced; nevertheless after maturely considering the *whole* of what has been remarked on this subject, I cannot help being of opinion that the preference rather leans on the side of  
 10 Carleton Island. If the object was that of Trade only, or regarded merely the transport of goods to Niagara, I do not see that Carleton Island has any material advantage over Kingston; but as a Station for the King's Ships of War, I am induced to think that Carleton Island is the best: indeed the features of the SW end of this Island are very singularly formed, and seem admirably adapted for all naval purposes, upon a scale perhaps sufficiently extensive for whatever could at any time be requisite upon this Lake.

In considering the two situations as Military Posts I shall not have that difficulty in deciding which should have the preference, the few following observations will I imagine be amply sufficient to ascertain it.

20 A single Work at Carleton Island embraces the best situation for defence, protects the Naval Yard and both Harbours, and scour the country: the ground in front is a natural glacis, and it is on this front only it can be attacked by a land force, but it is not commanded by it, nor can the Works be approached under cover; upon the whole I conceive it to be a good post, and that it would effectually answer the purpose of protecting the Navy.

At Kingston the only eligible situation for a Military Post is on the ground marked (C). This is a good commanding spot, but the height does not seem sufficiently spacious for a Work of any great capacity; something however of good defence might I believe be constructed here for three or four hundred men, but the particular  
 30 figure and dimensions of it cannot be ascertained with any precision until the wood is cleared, and proper sections are taken. This Fort with a Battery on the extremity of the point below, and another on the Point (D) would secure the Harbour from any attempts of an enemy on this side; but it could not prevent their taking post within fourteen or fifteen hundred yards, at the back of the Town of Kingston, and bombarding the Navy Yard and shipping in the Harbour; neither do I see that this could be any way prevented but by such a complicated and extensive system of Works as I imagine would not be thought expedient to adopt, nor could I undertake to recommend.

Neither Carleton Island or Kingston, nor indeed any other situation I have been  
 40 able to discover, could be capable of preventing an enemy's vessels from entering



the River St. Lawrence from the Lake; the Channels are too wide, and the wind in general as well as the current in their favor, but I am nevertheless of opinion that the best Station for the King's Ships of War to be ready to act for the protection of the navigation of the Lake, and the upper part of the River St. Lawrence, is Carleton Island. In regard to the present condition of the Works at this post, the whole is now so far in ruins as to be altogether defenceless and irreparable; the Ditch, which is in the rock, has never been sufficiently excavated, the other Works have been completed; but it strikes me that they never were capable of any serious defence, as well from the smallness of the Bastions as the oblique manner in which their faces are  
 10 seen from the other Works, but the whole could only be considered as a temporary matter, the green logs with which the Fort was built could not be expected to last long: the ground is favorable for a Fort of greater capacity and strength, but it is probable that such a system may have been originally adopted for the Works at this place as might then have been thought adequate to its importance, to the number of troops designed for its defence, and the strength it was likely an enemy might be able to bring against it: and these ideas must again be brought into consideration if this post should be re-established, or any new system adopted. Without therefore going, in this place, into a detail of particular Works, I will beg leave only to remark, which will be applicable to any system, that as the ground in front  
 20 widens and extends somewhat over the extremities of the Work, particularly on the right, precautions should be taken to strengthen those points towards the Field, to counteract in some degree the advantage an enemy attacking might have in the extent of his Flanks. The Barracks although partly dismantled, and in very bad condition, may be still repaired.

Proceeding to the other objects of your Lordship's Instructions, I next examined the State of Fort Ontario.

FORT ONTARIO being an Earth-Work and not lately attended to, has suffered considerably, the face of one of the Bastions has fallen down, a few other slips of less consequence have also happened to the exterior slope of the Parapet in different  
 30 places, and some of the Log-Work at the foot has decayed. The Sod-Work of the interior line of the Parapet throughout, and of the Embrazures has mouldered away. The Banquette is also in bad order, and at improper and unequal distances from the top of the Parapet, in some places not more than three feet. The Platforms are bad. The Gun Carriages want repairs and new trucks. The Outworks designed have not been compleated, except one Ravelin nearly so, the Parapet of which is now in very bad condition. The Picketting in the Ditch is too low as well as too slight. The Blockhouses in the Bastions, designed also for Barracks, are so exceeding damp below, owing to the earth lying against them, and so much out of repair above, that they are not habitable. The Bomb-Proofs in the curtains are falling down,  
 40 being forced by the weight of the earth behind. The Barracks may be repaired



without great expence. The Powder-Magazine is too damp to be serviceable. The Bastion shut in at the Gorge (as a retreat to the small number of troops in Garrison, unequal to the defence of the whole Fort) might perhaps for a short time protract their being taken by an enemy unprovided with cannon: but it is assailable by the Parapets of the adjoining Curtains, and the nearest Flanks of the Bastions on each side would serve as a Breastwork against it; therefore much defence must not be expected from it. The Fort is seen into and commanded, but it is from the distance of twelve or fourteen hundred yards. There is low ground at the foot of part of the glacis, not seen into from the Works, and the bank and shore on the Lake side is 10 not sufficiently commanded.

To restore Fort Ontario and put it into a proper state of defence, that is to say to repair (or rebuild where necessary) the Works and Buildings of the body of the Place, and to complete the Out-Works, the following would be necessary. The Scarp would be best revetted with Masonry or Brickwork, but if that should not approved, then there should be substituted new Log Work, raised to the height of twelve feet, with a slope half the height, the logs to be placed up and down, (not horizontally) and on the top a horizontal Capcill, and a small Berm, on which should be placed a strong Fraize; from this to the top of the Parapet to be sodded, with a slope, three-fourths from the height. The inside of the Parapet to be lined with Log-Work or 20 Masonry; also the Embrasures with oak plank: and the Platforms and Gun-Carriages to be repaired. A new Pallisade in the bottom of the Ditch; the Covered Way also to be pallisaded. The Ravelin to be compleated and the Work executed in the manner proposed for the body of the Place. The Glacis to be raised to its proper height, and Traverses made in the Covered Way; if the Glacis is also regularly sloped very little of the hollow at the foot of it will remain unseen. The Barracks in general to undergo a thorough repair, and to be weather-boarded. The Block-houses in the Bastions to be reduced in size so as to admit an area or passage between them and the Rampart; for which purpose a stone Retaining Wall to the Rampart within the Bastions will be necessary. The Bomb-Proofs in the Curtains to be pulled 30 down and rebuilt, in which case they should be thrown forward so as to admit a passage between them and the rampart. The Fort being in some degree commanded although at the distance of 1200, or 1400 yards, it might at least be proper, to prevent its being seen into, to raise the Work from Bastion No. 8 to Bastion No. 9, about four feet. A new Powder Magazine must be built; an advanced Blockhouse or Redout on the cliff, eight hundred and fifty Feet North East of the Fort, is necessary to command the approach along shore: and a line extended from the Counter-scarp on the left face of Bastion No. 7 to the edge of the bank to scour the same, as it is not at present sufficiently seen from any of the Works. The Brush-Wood within a thousand yards of the Fort should be cut down; it has been formerly done, but 40 is now grown up again. These several alterations and repairs if done by the troops



might probably cost in executing about eighteen hundred or two thousand Pounds ; and when compleated would require for their defence from five hundred to six hundred men.

The Harbour here is safe within and vessels may carry in about two fathom and a half of water in Mid-Channel ; but the entrance is so narrow, and the current sets out so very strong that it is extreamly difficult to get into it ; and it is not good lying without, being exposed to the swell of the whole Lake from the N and NW, and the shores are very rocky and dangerous.

The Harbour of TORONTO is nearly two miles in length from the entrance on the  
 10 West to the isthmus between it and a large morass on the Eastward : the breadth of the entrance is about half a mile, but the navigable Channel for vessels is only about five hundred yards, having from three to three and a half fathom of water. The North or Main Shore the whole length of the Harbour is a clay bank from twelve to twenty feet high, and rising gradually behind, apparently good land and fit for Settlements. The water is rather shoal near the Shore, having but one fathom depth at one hundred yards distance ; two fathoms at two hundred yards ; and when I sounded here the waters of the Lake were very high. There is good and safe anchorage everywhere within the Harbour, being either soft or sandy bottom. The South Shore is composed of a great number of sand-hills and ridges, intersected  
 20 with swamps and small creeks ; it is of unequal breadths, being from a quarter of a mile to a mile wide across from the Harbour to the Lake, and runs in length to the Eastward five or six miles. Through the middle of the Isthmus before mentioned, or rather nearer the North Shore, is a Channel with two fathom water ; and in the Morass there are other Channels from one to two fathoms deep. From what has been said it will appear that the Harbour of Toronto is capacious, safe, and well sheltered ; but the entrance being to the Westward is a great disadvantage to it ; as the prevailing wind is from this quarter, and as this is a fair Wind from hence down the Lake, of course it is that with which vessels in general would take their departure from this place, but they may frequently find it difficult to get out of the Harbour.  
 30 The shoalness of the North Shore as before remarked is also disadvantageous, as to erecting Wharfs, Quays, &c. In regard to this place as a Military Post, I do not see any very striking features to recommend it in that view, but the best situation to occupy for the purpose of protecting the Settlement and the Harbour would I conceive be on the Point (A) near the entrance thereof.

Besides the Harbours already mentioned, and the River Niagara of which I shall speak hereafter, there are other situations on this Lake where vessels may lye in safety, such as the SODUS and the GENESEE RIVERS : the first is capacious and has from three to five fathom water within ; the Bar has generally from two to two and a half fathom. The Genesee River is from one hundred and fifty to one hundred



and eighty yards wide, has from three to three and a half fathom water within, and about two fathoms over the Bar.

Vessels may also find Shelter within the Islands called the FALSE DUCKS, and also under the real Ducks, and in some other situations; but as these afford only a partial security against particular winds, they cannot be called Harbours. Vessels drawing only from eight to ten feet water can go into the Bay of Quinty.

The defects of NIAGARA are so numerous that I find it difficult to detail them; I shall, however, endeavour to point them out, together with its real situation, as explicitly as I can.

10 On the Land-Front the Sod-Work of the interior line of the Parapet has in part fallen in; the remainder will soon follow. The Cheecks of such Embrazures as are not of Log-Work are in the same state; but as Sod-Work will never stand to so little slope as it is necessary to give these parts of the Works, they should be lined with Masonry, or at least with Log-Work, or Oak Plank. The exterior slope of the Parapet is in tolerable condition as low as the Berm and Fraize, but from thence to the bottom of the Ditch, the ground has fallen to an easy and practicable slope. The right face of the South Bastion and of Haldimand's Battery adjoining, is fronted with Log-Work, which is now rotten and giving way. The Picketting in the Ditch, and the Fraize, are sound. The Out-Works do not appear to have been ever completed; the Ravelin has neither Picketting or Fraize before it. Lunettes seem to have been designed, but never brought forward to an useful state, or if they were, have been since destroyed. In the state these Out-Works are at present, I think they are of more prejudice than service in the defence of the place; it appears also improper their having been converted into gardens. Four new Platforms are wanting; seven of the Gun Carriages are unserviceable, and seven want repairing. The five Mortar Beds are all unserviceable. Some of the Guns are too short to be used in Embrazures. Brunswick Battery and the projecting points on the Front towards the Lake are undermined and in danger of falling down, particularly the North Demy Bastion, a part of which is already gone; I have recommended to the Commanding Officer to shore up what is left, to endeavour at least to keep it in its place 'till next year; if it falls a part of the Garrison will be laid open. The Lake makes such progressive encroachments on the whole of the shore on this front, that any expedient to prevent the Works falling must be considered as merely temporary until the whole of that shore, as far as the Works extend, shall be Wharfed, so as to prevent, as far as may be practicable, any further impression from the surf of the Lake: this however will be a very expensive business. The Picketting from the King's Battery round to the Water-Gate on this Front is mostly rotten. The Officers Barracks will be in tolerable good condition with the repairs done this Fall, except the small range on the North East side of the Parade, which are too much decayed to be ever put into good repair. The range of Soldiers Barracks near the Curtain want



new flooring, and drains made to carry off the water which falls against the back walls from the Works. The rest of the Soldiers Barracks and different Storehouses are not in want of any very considerable repairs. The Light-House is entirely rotten and must be rebuilt. The Bridge wants some repairs. The Drains in the Garrison are made with logs and are in general rotten. The two Stone-Blockhouses and the Picketting round them are in pretty good condition. The Powder-Magazine is in good repair, but it is damp from the bank of earth which is placed against it on one side, with a view of protecting it from any Batteries on the other side of the River. The Buildings in the Indian Department without the Fort are mostly in ruins. The 10 Wharf also where the vessels come to, is in exceeding bad state, and partly washed away.

Having stated particularly the condition in which the Fort of Niagara is at present, it still remains to take further notice of some defects in its construction as a Military Post, of which Haldimand's Battery is not the least striking, for although it throws some fire on the approach by the bank of the River, yet it makes with the right Face of the South Bastion a dead angle, where, and at the Land Port Gate, there is cover for an enemy, unseen from any part of the Works. The Front towards the River is only a Picketting, if I except a small Log-Work Battery, called Kings Battery, of four Guns, of which two are in the Face and one in each Flank; an enemy therefore possessing the other side of the River in Force, would very much annoy the Garrison on this, as the shot from their Batteries, which they could bring to bear within eight hundred yards, would meet with no interruption from passing entirely through the Fort. The Front towards the Lake is equally weak, it is not well Flanked, and does by no means sufficiently command the approaches by the shore. If these two Fronts were to be re-constructed on good principles of defence it would among other things be absolutely necessary to give them some substance, particularly towards the River, so as to be cannon proof, but this would take up so much of the interior space of the Fort, already rather too confined, as not to leave sufficient room for the necessary buildings or for the troops to act with the freedom requisite for its defence; and 30 on this idea it would be necessary to acquire space by throwing forward the Field Front about eighty yards. But these alterations would in fact amount to rebuilding the whole Fort, and indeed, as it appears to me, scarce any thing short of that can make it respectable. I have not therefore attempted to offer any specific sum for that purpose, as any estimate that is not grounded on the particular Plans and Sections of the Work to be executed, as well as of the sort of materials to be used in the construction, proportioned to the degree of permanence intended to be given, must be vague and erroneous. If the Fort was in a proper state of defence I should imagine it would require a Garrison of about four hundred men.

The Buildings at NAVY HALL are for the most part in exceeding bad repair, 40 and the Wharf is in ruins. Of the Rangers Barracks one Pile has been so far disman-



tled as to be past re-establishing; one end indeed might perhaps with some fitting up be made to serve for some time as a Blacksmiths Shop to the Indian Department, which they say is much wanted. The other Pile of Rangers Barracks is capable of being repaired, and might also serve the temporary purpose of accomodating (at least in part) the same Department: their Storehouses, &c., on the Niagara side, as already observed being in absolute ruins and not repairable. The fitting up this Pile of Building would cost about £35. 0. 0.

In regard to the situation at Navy Hall, Boats or Vessels may be well sheltered there from rough weather; it is convenient for embarking and disembarking and 10 equally safe and applicable to the purposes of the transport as at Niagara. Vessels also can more readily and safely get under way from hence, when the wind is from the Westward (which is fair to carry them down the Lake) than they can immediately from Niagara, and this seems the most material advantage that Navy Hall possesses over Niagara; but the latter has rather a better command of the entrance of the River than can be had from any situation on this side. A good post might be constructed on the height above Navy Hall, and such as would afford protection to Boats or Vessels from any attempts of an enemy on this side of the River: but they could not be secure here from Bombardment, or covered Batteries of Cannon on the other side.

20 The Storehouse at the Landing Place which is of round Log-Work is mostly rotten, and it is altogether in exceeding bad condition and should be rebuilt. The Dwelling House is much out of repair. The Ways, Wharf, Cradle, and Capstan want some repairs, which may be done for about £20. 0. 0.

All the Picketting and the small Platforms in the angles of FORT SCHLOSSER are rotten and in a tottering state. Part of the Wharf has been washed away, the remainder cannot last long. The Barracks and Storehouses are not in much better condition; they have been kept standing by the temporary repairs which have been annually performed merely to keep the weather out: repairs of a similar nature were included in the estimate transmitted from Niagara the 19th Jnly last.

30 This place never could have had any pretensions to defence, and the Picketting could only have served as an Inclosure to prevent an intrusion upon the Buildings within, and to keep the Troops in their Quarters. The Loop-holes are so low they may be made use of from without as well as within. The Storehouse within the Pickets is I apprehend too small, and very inadequate to the purposes of Government. The whole of this place is now so far gone to decay, as to be past any effectual repairs; therefore any attempt in that way (further than what has already been mentioned with respect to the Buildings) would I apprehend be an useless expense. And as to rebuilding it, the mode of doing that will depend on the conveniences requisite for forwarding the Transport: The quantity of Stores or Provisions which



may be expected to be at any time lodged here; and the degree of protection it may be intended to afford.

The whole of FORT ERIE is in so wretched a state, and altogether so much in ruins that it is not easy to say which is the worst part of it. The Picketting is altogether rotten, and a great part of it gone: and the Front next the water which was a Stone-Wall, has been washed away by the incroachment of the Lake. The Barracks by dint of patching and temporary repairs have been kept habitable; some further repairs of the same nature have been provided for against this Winter. The Storehouse is in so bad a state that it is almost past repairing; the weather 10 comes in now in all quarters of it: the shingling of the roof cannot be repaired, it must therefore be entirely new shingled, or rather, if it can be got, a bark covering is to be put on, as the Building is hardly worth the expence of new shingles. The weather boarding and underpinning is scarce in a better condition, but it may be made to do for another season. It seems doubtful whether the Bakehouse can stand the Winter, but the Oven may be repaired. The Wharf or Landing place wants repairs: This would have been better placed to the Northward of the Fort, where boats would have been much better sheltered than at the present situation.

I cannot recommend re-establishing or making any alterations to the present Fort, as it appears to me to be improperly placed; the rising ground behind would 20 I conceive be the proper situation. The Harbour is a tolerable good one, and although there is sometimes a considerable swell from the Lake sets in, yet Vessels may ride here in safety, taking proper precautions for preserving their cables, as the bottom is rocky. There does not appear to be any other situation equally eligible.

Previous to making any observations on the COMMUNICATION AND TRANSPORT from the upper end of Lake Ontario to the lower end of Lake Erie, it may not be improper just to state in a few words the present mode of proceeding in that business.

From Niagara to the Landing place below the Falls is about seven miles and a quarter, there is a tolerable good Road, but Merchandise, Stores, &c. are carried up 30 the River in Batteaux, or in Vessels, there being sufficient depth of water all the way up, and also to lye alongside the Wharf to unload: beyond this place the current becomes too strong to proceed any further by water without great difficulty: Boats indeed, but not Vessels, can go about half a mile higher, but no advantage can be obtained from it as the shore then becomes impracticable, being a precipice of loose rock about three times as high as where the present Landing is. From the Wharf at the Landing, goods are drawn up the side of the bank, about fifty feet high, upon Ways, on an easy slope, by a Capstan fixed at the top. From this place there is a Waggon Road of seven miles to Fort Schlosser (which is one mile and a half above the Falls) where the goods are again put into Boats and carried up (eighteen miles) to 40 Fort Erie, from whence they are conveyed in Vessels across Lake Erie to Detroit, &c.



I think a better situation (A) for a Landing Place might be chosen below the present one, it is distant from thence about half a mile by land, and three quarters of a mile by water : The bank of the River here is not half the height of the other : the water is sufficiently deep at a short distance from the shore for vessels to unload : and by raising a Wharf and lowering some of the bank for a Road, the labour and delay of hauling goods up by Ways as in the present practice would be avoided : it would also be much more convenient and expeditious for Vessels to come to, as the worst part of the navigation would be avoided, which is in passing round a point between this place and the Landing. The length of Road to be made from this *proposed Landing Place* will be about half a mile, but it is mostly good ground and will not require much expense. The real length of Land-Carriage however to Fort Schlosser will not be increased, or at most not more than one hundred or one hundred and fifty yards, owing to the great detour which the Road makes from the *present Landing*. As the state of the Buildings and appurtenances of the Landing Place are now so ruinous as to require little less to make them perfect than reconstructing ; in case therefore it should be meant to make the business of the Communication permanent on that side, it might then be an object worthy of consideration whether it would not be most eligible to adopt the new situation here pointed out. If on the other hand it should be thought expedient to carry on the Communication on *this side 20 of the River*, then the Landing Place (B) must be nearly opposite to the present one, a very little below it, where the bank of the shore is lower than in any other place, and seems in all respects the most convenient spot for the purpose, whether on this or the other side of the River. There is good ground here for Storehouses and other conveniences, and it is close to the Road leading through the Settlements. The situation above the Falls to be chosen instead of Fort Schlosser ought I imagine to be the Chippeway Creek ; it is indeed nearer the Falls than Fort Schlosser, and there is a very strong current passes it, but there is no difficulty (going along shore,) to get into the Creek, and as there is then still water, boats may lye there in great safety, and such Buildings as are requisite may be erected here. The Creek is about *30* eighty yards across, and has seven or eight feet depth of water. It would be necessary to have a Bridge here ; and likewise a good Road : the first would not cost a great deal, as there is a good bottom and no current : but the latter would be attended with some expense, as the ground is very wet to the distance of a mile and a half from each side of the Creek ; not however of such a nature as would not be easily improved by cutting down the trees to let in the air and sun, and by making a few drains. Both the Road and the Bridge are objects which the New Settlers themselves must sooner or later be obliged to have for their own convenience, but whether their ideas in this respect might lead them to execute these works upon a scale sufficiently extensive and substantial to answer the purposes of Government, and of the *40 Transport*, I cannot undertake to say. The length of Land Carriage on this side the River will be near three miles more than on the other ; but the ascent of the hill

recepty to have a bridge and a Road

Road

from the then Landing Place below the Falls will not be so steep as on the other side: and I think the excess of distance will be otherwise compensated by not having the River to cross as at present from Fort Schlosser; by the degree of security to be derived from having the whole Transport carried on compleatly on one side of the River from Navy Hall to Fort Erie; and by having the assistance of the new settlers with their waggons and teams at hand in cases of exigence; an advantage not to be obtained conveniently, if at all, on the other side. The current all the way to Fort Erie is very strong, and the business of getting up loaded Boats is both laborious and tedious; but I should think the Transport from above the Falls might be much 10 improved if the bank of the River was sufficiently cleared to admit of the Boats being dragged up by men, or rather by horses, as fewer hands would be necessary, and they would get up much more expeditiously than at present.

It may not I hope be thought inapplicable to the present subject of my Report to remark in general terms, that it does not appear to me that any precautions taken on one side of the River for the security of this communication, can insure its safety from annoyance by an enemy established on the other; that there does not seem in this respect any material advantage in possessing one side more than the other; that where any may be found in a particular situation on one side, it will in general be counterbalanced by some one of equal importance on the other: that therefore 20 under these circumstances the Communication may be liable to be impeded or at least interrupted and rendered precarious: that whenever any decided advantage shall appear on one side over the other, it must be derived from superiority of force rather than situation; and therefore when this is not the case, and they are in this respect also nearly on equal terms, the mutual interest of the parties possessing the opposite shores, will naturally point out the necessity of such a compromise and accommodation between them as shall prevent any disturbance or impediment, without which the business on the Communication cannot be carried on with full security to either

There are not any good Harbours for Vessels between Fort Erie and the entrance 30 of the River leading to Detroit, on the North side of Lake Erie; but there are points of land which afford a partial security from particular winds, and have pretty good anchorage near them: of these the principal are Point Abinau, Long-Point, and the East side of Point au Pin. On the South and West Shores, the best Harbours are at Presque Isle, Cayuga River, and Miami Bay. Vessels of the same description as proposed for Lake Ontario will also be proper to navigate this Lake, if they are not intended to go higher than Lake St. Clair: but if they are meant to pass into Lake Huron they should not exceed Fifty Tons, on account of the shoalness of the water over the Bar at the entrance of the River from Lake St. Clair.

Fort Lernoult at DETROIT although in many respects defective, yet it is not 40 altogether in a bad state of repair: the following are the principal deficiencies.

*The Communications*

Some of the Platforms want trifling Repairs: one new Mortar Bed and one Gun Carriage are wanting. All the Drains want opening, they are now choaked up and very offensive, and the water stagnates under the floors of the several Buildings. Part of the interior line of the Parapet wants to be new sodded, or rather lined with Oak Plank. The Pump is out of repair, and some repairs are wanted to the roofs and floors of the Barracks and Storehouses. A part of the Fraize is too weak, and the Abbatis has began to decay. All the Cheeks of the Embrazures should be lined with Plank, they are at present Hurdle-Work, which is not sufficient to stand the shock of the firing from the Guns now in the Fort, most of them being too short for  
10 Battery: the scaling of these Guns has already destroyed some of the Embrazures, which ought to be immediately rebuilt.

The disposition of the Buildings within the Fort is the most injudicious that could have been devised, as they do not admit of any interior space for a Place of Arms, or Parade, where the Garrison can assemble. The Fort being small and constructed with Half-Bastions, of course their Faces are not properly defended, and the Ditch and pallisading is very imperfectly seen. There does not appear to me any other remedy for this, but in placing a small Block-House near the middle of the Ditch, upon each Front to defend the same. The repairs as before stated, together with these Defences in the Ditch, might cost about Two hundred and Fifty Pounds.  
20 The Powder Magazine without the Fort wants the floor to be completed: this Building is in every respect badly situated, and too much exposed.

In what is called the Citadel, which is only the Barracks inclosed with a Picketted Fence, the Buildings want very considerable repairs. The Soldiers Barracks want intire new Shingling: the Partitions, weather-boarding, floors, &c., want repairing, and several new sashes are wanting. The Officers Barracks also want many repairs, particularly the lower stories, where new doors, window shutters, steps, &c., are necessary, and the drains require to be opened and cleared. The floors, roof, and sashes are in very bad condition. Repairs are also wanted to the Guard-Houses: these several works if compleated might probably amount to eight  
30 hundred or nine hundred Pounds.

The several Block-houses have been repaired, and when the Picketting which surrounds and connects the Town with Fort Lernoult, shall have been renewed agreeable to your Lordship's directions, the Inhabitants having already provided the Pickets, the place will be secure from any surprise: but it is to be lamented that the situation of the Naval-Yard, being altogether without the defences, precludes it from the possibility of receiving any effectual protection.

I imagine that Detroit would be properly Garrisoned with five hundred men; of whom about one hundred and eighty might be sufficient for the defence of Fort Lernoult, and the remainder to be distributed to the several Block-houses and points  
40 of defence in the Picketting round the Town.



In regard to the Communication from Lake Erie to Detroit: it having been a matter of doubt with some people whether a good Ship-Channel might not be found between Gross Isle and the West Main Shore, I considered this as an object of the first consequence to be ascertained previous to the going into an investigation of the properties of the Ground (as a Military Post) opposite to the Island of BOIS BLANC; as the importance of this situation would have been much lessened, if another Communication passing clear and indepentant of this place had been really practicable: I therefore determined to sound this Channel carefully in which I was assisted by Captain Grant of the Naval Department. In going down from Detroit by this Channel, (between Gross Isle and the West Main Shore,) we had regular soundings of not less than three, nor more than five Fathom, untill we came opposite to the small Island called Isle au Celeron, which lyes near the South end of Gross Isle, and between it and the West Main Shore, at this place the water suddenly shoaled; and upon examining the two outlets, the one by the West and the other by the East of Isle au Celeron, we found that the soundings in both were very irregular: the former having from seven feet to three Fathom Water, and the latter from six feet to two Fathom and a half; the deep water being only in holes, as we could never get more than two throws of the Lead without coming again into Shoal-Water. I therefore think that it may be safely concluded there is no Ship-Channel from Lake Erie up this River to the Westward of Gross Isle, and particularly when it is considered that the waters of the Lake and River were at least three or four feet higher this year than has ever been remembered at any former period. The best Channel for Vessels passing this Communication to or from Lake Erie is between the Island of Bois Blanc and the East Main Shore: there is however another tolerable good Channel to the Westward of the Island, which I likewise examined; but this unites with the former close in with the North end of the Island I am therefore of opinion that the best situation for a Post, will be on the Main Shore (A) opposite to the North end of the Island Bois Blanc, as such a position will command both Channels, every vessel being obliged to come within five hundred yards of it. There is good and safe anchorage in the Channel between the Island and the Main Shore; that shore is also well adapted for Wharfs and other conveniences for Naval or Commercial purposes; and to which a Post as above described would afford good protection: and if a Battery was constructed on each end of the Island, the whole of this Channel and Harbour would be secured.

The Island of Bois Blanc is elevated about fifteen feet above the level of the water; and the Main Shore is about eighteen feet. The ground of the latter for a very considerable extent preserves a regular and even surface, and is no where more than twenty-five feet above the level of the River.

About four miles above Isle au Bois Blanc is a low Marshy Island called Turkey Island or Fighting Island, near five miles long: the Ship Channel divides here, and



the Island may be passed on either side; but the Western Channel is now generally preferred, as having more breadth, and nearly an equal depth of water. It is but a few years since, that it was doubted whether this latter Channal was safe or practicable.

Proceeding on the Communication from Detroit into Lake Huron, the Current is pretty strong to Lake St. Clair, which is distant from Detroit about seven miles: Isle Cochon lies about midway, and is two miles long; the Channel on either side is navigable for Vessels, and are used indifferently as the wind may best suit for one or the other: they are each of them eight or nine hundred yards wide in the narrowest part.  
 10 Lake St. Clair is about twenty miles over, and has in general about three Fathoms Water. At the entrance of the River St. Clair from this Lake there is a Bar, through which there is a very narrow Channel with not more than seven feet water, muddy bottom. From hence to Lake Huron (Fourteen Leagues) the current is very strong, and at the entrance of that Lake becomes rapid. After passing the Bar before-mentioned there is good depth of water for Vessels all the way up. From the general prevalence of the Northerly and Westerly Winds, and the strength of the current upon this Communication, it is often a difficult and tedious operation to get up from Detroit; and vessels are not unfrequently a fortnight or more in accomplishing it. The whole of the East Shore of this River as well as the West Shore, seems good land  
 20 and very proper for Settling upon; and when that event shall have compleatly taken place, the Navigation will be much aided thereby; for the banks of the River being cleared, Vessels may then in contrary winds be tracked most of the way up to the Rapid, there being in general two and a half and three Fathom Water within fifty feet of the shore. The River is for the most part about three quarters of a Mile broad except at the Rapid, where it is somewhat narrower, but the shore here does not offer any advantages to recommend it for a Post.

The Island of MICHILIMACKINAC is about nine miles in circumference, and is chiefly composed of Lime Stone Rock. The small Bay on which the Town is built, is convenient and well sheltered by the opposite Island; there is a strong current  
 30 sets through the Channel between them, but the Bay is very little affected by it: this current passes in general with the wind either Westward or Eastward, but in Winter it is said to change every twenty four hours.

The Fort stands over the North end of the Town on a Bank about fifty or sixty feet high, and is on this side very steep; but from the Land-Front the ground rises gradually above the Fort; and at the distance of seven hundred or eight hundred yards, there is a very steep ascent of about one hundred feet perpendicular height; and from this place the Fort is so effectually commanded that it could never resist Cannon from hence, as the Garrison would not dare to shew themselves in their Works. The Fort itself has never been compleated; the Ditches, which are in  
 40 the rock, are very little excavated, and the Rampart but partly raised: but in order



to shut the place up from being surprised by Indians or others, a Picketting has been raised upon it all round, which now begins to be very rotten ; I had a part of it towards the Bay shored up while I was there, but the bank having slipped from under the Cill, there is an opening of forty or fifty feet long, into the Fort. The Soldiers Barracks is in indifferent repair. The Powder Magazine is in pretty good order, having lately had a new roof; and a window struck out at the end, it is now sufficiently dry and airy. There is a very good Well sunk in the rock. And there is a pile of Building of Masonry, intended for Officers Barracks about half finished : the walls are nearly raised to their proper height, and the window frames put in, 10 but the Roof, Floors, &c., are wanting. The Commanding Officer's House, the Indian and Engineers Stores, are without the Fort. There is only one Front of the Fort that has Flanks ; which is opposite to the commanding ground.

Considering the foregoing circumstances and situation of this place, I cannot help being of opinion, that as a Military Post, the greater part of the expense bestowed here has been a waste of money. If the Works were intended as a defence against musquetry or Indians only, too much was designed ; and if against Cannon, by far too little ; and most of that little, ill judged. In the first case a Picketted Fort Flanked with Blockhouses, or if designed to be permanent, a Loop-Holed Wall instead of Picketting would have been quite sufficient. But if an enemy with 20 Cannon was to be apprehended, it was then absolutely necessary to have taken Post on the commanding ground, either by a Redout or such other Work as the strength of the Garrison proposed to be kept here would have pointed out: But for the immediate protection of the Town, it would still have been necessary to have had the small Picketted or Walled Fort in the situation where the present Work stands: the Town being under the Hill, is too distant, and not seen from the commanding ground. Such being the state and circumstances of this Post as they have occurred to me, I cannot therefore recommend compleating the Fort on the original Plan ; and hardly any improvement or alteration can be made that will fall much short of a new one. But as a temporary business, and in order as far as may be to 30 insure the immediate possession of it, at least to prevent any surprise by Indians or others, I should imagine that the Picketting ought to be renewed, and the Platforms repaired : and, if it should be judged expedient, the Officers Barracks might be completed, as they are much wanted. About one hundred and fifty men would, I conceive, be requisite for the defence of this place.

What is called the FALLS OF ST. MARY on the Communication between Lakes Superior and Huron, is a strong Rapid of near a mile in length, and about half a mile across ; but above and below the Rapid it is about three quarters of a mile across from shore to shore. Canoes pass the Rapid by *going up* quite light, and by taking out a part only of their loading to *come down*. There is a Portage on the South Shore 40 of about half a league in length, partly over wet ground and partly rock, but there

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is no hill ; it is a cart road. Near the foot of the Falls on this shore are two forts (as they are called) or dwelling houses and storehouses inclosed with a picketed fence, belonging to the merchants : but this place is no otherwise settled or inhabited, except by such Indians and Traders as occasionally stop here. The situation here is convenient for the trade, and the land seems good and proper for settling upon ; and although there is nothing very striking to recommend it as a Post, yet it may be capable of such a one at least as might be sufficient for the protection of the trade passing on this side of the Falls. The channel for canoes is near this shore, it is narrow and somewhat crooked, but has everywhere about three feet depth of  
 10 water. There is a deeper channel but not safe for canoes near the middle of the Rapid, or rather a little towards the North Shore, by which small vessels have frequently passed ; but the Rebusca, the vessel at present employed on Lake Superior between the Grand Portage and this place, does not come any lower than the Landing at the head of the Falls. The North Shore immediately along the rapid, consists of several small islands ; the channels between them are shoal, but a channel might probably be made, with some labour, in the rapid itself near this shore, fit for canoes to pass, and for which undertaking there are occasionally seasons here which are favorable : for, when it blows hard from the Eastward, it then frequently happens that the rapids, or rather that part of the streights over which they pass, are nearly  
 20 dry ; by watching these opportunities the large stones might be blown up, and others cleared away so as to make it navigable for canoes on this side ; or one of the channels passing between the islands and the main shore, might perhaps be capable, with the assistance of locks, of being converted into a navigable canal : this would however, I apprehend, be attended with very considerable expense. The shore on this side opposite to the present forts is mostly low and wet ; of that which is dry there is but a small proportion of it good land, the remainder is rocky : but the dry ground altogether is of no great extent, for at six hundred or seven hundred yards back from the shore the land falls into swamps and savannas, and this is for the most part the case all the way between this and Lake George. This part of the  
 30 country therefore, at least on this shore of the streights, does not appear to be propitious for a settlement of any magnitude. There are indeed to be found certain spots of good land, but they are only of small extent.

Adverting merely to the Transport of Goods and convenience of Trade with Lake Superior, I think there does not appear any reason to suppose that it is not possible to have that business carried on nearly or quite as well on this side as on the other. It is presumed, as before observed, that it is practicable to make a channel sufficient for canoes : and it is certain there can be no great difficulty in making a road for carts, which would also be shorter than the present portage on the other side. The shore at the foot of the Falls in consequence of the projection of the several  
 40 islands before mentioned in the rapid, is here formed into a safe and commodious

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Bay, with from two to three fathom water, soft bottom, where the necessary Wharfs or Quays might be erected, and is therefore in this respect rather more convenient for vessels to come to than on the other side: and although as I have before remarked, from the nature of the ground, a settlement of importance cannot be established here, yet there is more ground than is sufficient for such families and buildings as might be necessarily connected with the Transport: and for such works as may be requisite for their immediate protection, as well as the vessels or boats while lying here. Another circumstance much in favor of this shore which perhaps ought not to be omitted, is that the *White Fish* of which great quantities are  
 10 taken here and salted in the Fall of the year, are, as I am informed, chiefly caught on this side of the Streights. The depth of water in the Mid-Channel for a mile and a half below the Falls, is five fathom and a half; and lower down it runs in general from two to three fathom.

THESSALON is twenty leagues to the Eastward of the Falls of Saint Mary: the shore on each side of the entrance of the River here is low, but dry: the long projecting point is rock and sand. The River is about one hundred feet across: it has a Bar with only six feet water, but within that there is three fathom, and it is navigable for boats as far as the rapids, which are eighteen or twenty miles up. On each side of the Head-Land or projecting point before mentioned there is a good bay secure  
 20 from Northerly winds, and one of them well sheltered from the Easterly and the other from the Westerly winds; but I should imagine neither of them to be safe when it blows from the Southward. If the entrance of the River was practicable for vessels, it would be a good Harbour, and might perhaps be of some convenience to the Trade, and could also be protected by a Battery on the point of the Head-Land, with a better Work behind it near the entrance of the River: but I apprehend the want of water over the Bar for vessels drawing more than five or six feet, will always remain an obstacle to its being a place of any consequence either in a commercial view, or as a Post. I was in great hopes of being able to find a place which might have combined these objects at the South-East entrance of Lake George, and at  
 30 the same time to have had the entire command of the ship channel, which is not more than a quarter of a mile wide here, and the East Shore being higher than, and commanding, the opposite side; but upon particular examination of the ground, I found it to consist of small rocky Islands, none of them capable of admitting a better Work than a small Battery or Blockhouse, and not the least particle of earth or herbage for raising vegetables or feeding stock. And in all the route from St. Maries to Thessalon I have not observed any situation possessing advantages sufficient to recommend it: indeed with respect to the concerns of Trade only by the way of Lake Superior, I am not aware that any Post is necessary on this Communication short of the Falls. There is some tolerable good land along the banks of the River  
 40 at Thessalon, but it does not appear to be of any great extent; and from the Falls of



St. Mary to this place, except some small spots of indifferent good land on Lake George, the coast is rocky and barren.

FRENCH RIVER is eighty leagues to the Eastward of the Falls of St. Mary; the entrance is composed of a considerable number of small islands and channels; but the Westermost of these latter is the best navigation, it is about two hundred and fifty feet wide, and has from two to three fathom depth of water, it is narrower a little way up, and at about half a league from the entrance becomes exceedingly intricate, on account of the small islands and channels, which are here so numerous in every direction, and so much resembling each other in appearance, as to make it 10 extremely difficult without a guide to find the true navigable channel, which in general is deep, in some places not less than thirty feet, but so narrow that there is scarce room for two canoes to pass each other: the bank in these situations is a steep rock, almost perpendicular, and there are very strong currents or rapids. The country adjoining to and near this River is a rocky desert, nothing growing but small scrubby bushes, and pine-trees not thirty feet high; my own observations did not extend above three or four leagues up the River, but, as I am informed, the same dreary prospect continues all the way up to Lake Nipissing which is reckoned twenty five leagues: and indeed I cannot speak more favorably of the general complexion of the coast all the way from Thessalon to French River, for it is a rude, barren, and in-20 hospitable shore, in no respect fit for or capable of supporting any Settlement. There are scarce any situations that I have observed, capable of any cultivation, except on the borders of the Rivers Mississague, but the tracts of good land here as well as at Thessalon, appear of such small extent, and must therefore be so unconnected and unsupported that no advantage could I imagine be expected from them sufficient to encourage any attempts to settle on the North Shore of Lake Huron. The greater part of this coast is also a dangerous navigation even for canoes, and would be much more so for vessels, as the rocks in many places run to a considerable distance into the Lake. Canoes indeed with discreet management, and by seeking in time for a place of safety on the appearance of a gale of wind, may generally find shelter among-30 some of the islands which lye along most part of this coast: but vessels would not always so readily meet with a Harbour: and to navigate here in them with any probability of safety, would require a thorough knowledge of this part of the Lake.

From French River to Matchadosh Bay is about forty four or forty five leagues, and the description I have already given of the North Coast of the Lake will also nearly answer for this District, as it appears equally barren and rocky. There is a cluster of islands which line almost the whole extent of it, in some places not spreading more than half a league from the main shore, and in others three leagues, but no where more: there are however other islands detached and scattered about in this part of the Lake at various distances.



MATCHADOSH BAY lyes to the Eastward and Southward of French River, it is of considerable extent, being about twelve miles deep, and of an irregular breadth from five to seven miles : at the entrance from the Lake there are several islands, the best channel through them for a vessel is next to the West main shore. Throughout the greatest part of the Bay there is depth for vessels of any draft of water ; but towards the bottom of the Bay it is shoal, having only six feet water within about a mile and a half from the shore. There are several small Rivers or Creeks which fall into the bottom of this Bay, but not any one in particular which bears the name of Matchadosh adverting however to that which leads to Lake La Clie and  
 10 by which there is a communication (sometimes used) to Toronto on Lake Ontario ; I therefore examined the entrance of this River particularly, and found that there was a Bar with only six feet water, within that there was two fathom, and at a quarter of a mile up a rapid. The banks of the River are rock, and continue so as I am informed the greater part of its course : it therefore does not seem a proper situation for a Settlement : but if it should ever be thought an object of consequence in the view of a communication to Lake Ontario, storehouses may be built at the entrance and protected on the South shore. But it is, I apprehend, to be doubted whether it can ever become a place of much importance even in this respect, if, as I am informed, it is impracticable to pass with large canoes, on account of the rapids  
 20 and difficult carrying places ; and if to this is added the great length of Portage from Toronto to Lake La Clie, and the being obliged to keep canoes upon that Lake ; these seem altogether, at the first view, to be very strong obstacles to any business being carried on this way upon the great scale of Trade.

The face of the country, (as I have described it from Saint Maries,) seems on a sudden in Matchadosh Bay to put on a different appearance ; it however continues rocky and barren quite down to the bottom of this Bay, the North East shore of it being much the same as that on the Lake, but the South and South West shore have all the marks of tolerable good land, and seem very well adapted for Settlements.

From Matchadosh Bay along the East coast of Lake Huron down to the River  
 30 leading to Detroit, the Navigation is, in general, dangerous ; and in the last fifty leagues there is no Harbour for any vessel, and but one even for boats or canoes : and being an open coast the swell from the Lake in Westerly winds beats upon it with great violence. In this great extent of coast from Matchadosh Bay, which has hitherto been little known or frequented except by some few Indians, the country has various appearances, in some places sandy and barren, but in many others very proper for cultivation, there being several considerable tracts of land, which I make no doubt may hereafter be settled to advantage ; but for more distinct information as to the particular situation of these places, I beg leave to refer to the annexed general sketch of Lake Huron.

40 I will now beg leave to close this Report with observing that I have endeavoured as far as in my power to adhere to the spirit of my instructions, and to give every



information as complete as possible, not having designedly omitted any thing which I thought could be in the least useful. I have at present only further to add by way of recapitulation, a few remarks on the subject of the Lakes in general: that vessels sailing on these waters being seldom for any length of time out of sight of land, the Navigation must be considered chiefly as Pilotage, to which the use of good nautical charts are essential, and are therefore much wanted. That gales of wind or squalls, rise very suddenly upon the Lakes, and from the confined state of the waters, or want of sea-room as it is called, vessels here may, in some degree, be considered as always upon a lee shore, and this seems to point out the necessity for 10 their being built on such a construction as will best enable them to work to windward: schooners should perhaps have the preference, as being rather safer than sloops: they should be from eighty to one hundred Tons burthen on Lake Ontario; and fifty Tons burthen on Lakes Erie and Huron; but if not intended to communicate between these two Lakes, they may then be of the same size as on Lake Ontario: and if this system is approved, there can be no necessity to deviate from it unless an enemy should possess vessels of greater magnitude or force; but as the intent of bringing any such forward, at least the building them, can never remain a secret, there may be always time to counteract such a design, by preparing to meet them at least upon equal terms.

20 It does not seem adviseable, nor do I know of any good reason to continue the practice of building vessels flat bottomed, or to have very little draft of water, they are always unsafe, and many of the accidents which have happened upon the Lakes, have perhaps in some degree been owing to that construction: on the contrary if they are built on proper principles for burden as well as for sailing, they will be safer, and will find sufficient depth of water, proportioned to any Tonnage which can be requisite for them upon these Lakes.

I am with the greatest respect, My Lord,  
 Your Lordship's most obedient humble servant,

GOTHER MANN,

30

Captn & Command'g R'l Eng'r.

To His Excellency the Rt Hon'ble

LORD DORCHESTER, General and  
 Commander-in-Chief in British America,  
 &c., &c., &c.

Gopher Man's Report  
6 Dec 1788  
Concluded

## No. 10.

(*Quebec Land Book from 1787 to 1791, Upper Canada. (Pages 79-87)*

### RULES AND REGULATIONS FOR THE CONDUCT OF THE LAND OFFICE DEPARTMENT, DATED 17TH FEBRUARY, 1789.

TUESDAY 17th February, 1789.

Present:

His Excellency the Right Honourable Guy, Lord Dorchester,  
The Honourable William Smith, Chief Justice,

10	Hugh Finlay,	George Pownall,
	Thomas Dunn,	William Grant,
	Edward Harrison,	Francis Baby,
	John Collins,	Chas. De La Naudière,
	Adam Mabane,	Le Cte. Dupré,
	J. G. C. DeLéry,	Esquires.

His Lordship laid before the Council the Report of a Committee of the whole Council, on the digest of the regulations for the granting of the waste lands of the Crown, reported by the Private Committee who had been charged therewith, both which reports were read, and ordered to be entered in the Minutes. \* \* \*

His Lordship offered a draft of rules and regulations for the conduct of the Land Office Department formed upon the suggestions of the Committee, with such alterations and additions as appeared to His Lordship proper to be adopted, and to be published as recommended in the Report. The Draft was read in the words following, viz. :—

#### RULES AND REGULATIONS FOR THE CONDUCT OF THE LAND OFFICE DEPARTMENT.

- I. Every Board appointed or to be appointed by the Governor in any part of the Province, for the more easy accommodation of persons desirous of forming immediate settlements on the waste lands of the Crown, shall consist of not less than three Members, and if composed of more, any three of them shall be a Quorum for the business intrusted to the whole Board.
- 30 II. Every such Board shall be empowered to receive applications for grants of parcels of the waste lands of the Crown, within the extent of their trust, until the first day of May in the year one thousand seven hundred and ninety one, when their authority shall be determined, unless continued by a new appointment; every such application shall be by petition to the Governor in Council, stating the quantity and the situation of the land prayed for, and the merits and pretensions of the petitioners. And all His Majesty's good and faithful subjects, and all others worthy of being admitted as such, shall be considered as proper objects for His bounty and grace, and within the sphere of this trust.



III. It shall be the duty of every such Board to hold stated and periodical meetings, made publicly known, to give free and easy access to petitioners, and to examine into their loyalty, character and pretensions, and upon these and all points requisite, to take sufficient and satisfactory proofs by affidavit, deposition or otherwise; and to avoid discontents, all petitions and applications shall be taken up in the order of their being preferred, where there is no special cause for a different course of proceeding.

IV. The safety and propriety of admitting the petitioner to become an inhabitant of this Province being well ascertained to the satisfaction of the Board, they shall 10 administer to every such person the oaths of fidelity and allegiance directed by Law. After which the Board shall give every such petitioner a certificate to the Surveyor-General, or any person authorized to act as an Agent or Deputy Surveyor for the District within the trust of that Board, expressing the ground of the petitioner's admission. And such Agent or Deputy Surveyor shall, within two days after the presentment of the certificate, assign the petitioner a single lot of about two hundred acres, describing the same with due certainty and accuracy under his signature. But the said certificate shall nevertheless have no effect if the petitioner shall not enter upon the location, and begin the improvement and cultivation thereof, within one year from the date of such assignment, or if the petitioner shall have had lands 20 assigned to him before that time in any other part of the Province.

V. Every such Board shall at the end of every three months, or as soon after as opportunity offers, transmit to the Office of the Governor's Secretary the petitions of that period, and a copy of the certificates given thereon; and when a petition contains a request for a greater quantity of land than the Surveyor-General and his Agents or Deputy Surveyors are authorized, by the fourth and seventh articles of these regulations to assign upon certificates given by the said Boards, they shall report the ground of such claim and pretensions, the consideration of which is reserved to the Governor and Council; the Board transmitting with the petitions of every period a list expressing the names of the petitioners, and the dates of their certificates, and the 30 quantum of the locations.

VI. The Board shall from time to time forward like lists to each other every three months, or as soon after as opportunity offers.

VII. The respective Boards shall, on petitions from Loyalists already settled in the upper Districts for further allotments of land under the instructions to the Deputy Surveyor-General, of the 2nd of June, 1777, or under prior or other orders for assigning portions to their families, examine into the ground of such requests and claims, and being well satisfied of the justice thereof, they shall grant certificates for such further quantities of land as the said instructions and orders may warrant, to the acting Surveyors of their Districts respectively, to be by them made effectual 40 in the manner before mentioned; but to be void nevertheless, if, prior to the passing

# Land Board Regulations

petitioner must enter and improve  
within one year

the grant in form, it shall appear to the Government that such additional locations have been obtained by fraud. And that of these, the Boards transmit to the Office of the Governor's Secretary, and to each other, like reports and lists as hereinbefore, as to other locations, directed.

VIII. And to prevent individuals from monopolizing such spots as contain mines, minerals, fossils and conveniences for mills, and other singular advantages of a common and public nature, to the prejudice of the general interest of the settlers, the Surveyor-General and his Agents or Deputy Surveyors in the different Districts shall confine themselves in the locations to be made by them upon certificates of the 10 respective Boards to such lands only as are fit for the common purposes of husbandry, and they shall reserve all other spots aforementioned, together with all such as may be fit and useful for ports and harbours, or works of defence, or such as contain valuable timber for ship-building or other purposes, conveniently situated for water-carriage, in the hands of the Crown.

And they shall without delay give full and particular information to the Governor or Commander-in-Chief for the time being, of all such spots as are hereinbefore directed to be reserved to the Crown, that order may be taken respecting the same.

And the more effectually to prevent abuses, and to put individuals on their guard in this respect, any certificate of location given contrary to the true intent 20 and meaning of this regulation is hereby declared to be null and void, and a special order of the Governor and Council made necessary to pledge the faith of the Government for the granting of any such spots as are above directed to be reserved.

IX. The Surveyor-General's Office, for the purpose of combining the strength of the settlers and rendering them mutually assistant to each other, shall lay out the tracts or Townships to be granted as nearly contiguous to each other as the nature of the country will permit; exercising all due care to give them certainty in the descriptions of their boundaries and their locations; observing in each Township to lay out Town plots, Glebes, and other spaces for public uses, and certain equal portions at the corners thereof, to remain unlocated by any certificates to be given to individuals, 30 by the authority of either of the Boards above-mentioned; the grant of such portions of every Township so to remain to the Crown, being reserved to the future consideration of the Governor and Council, or as His Majesty shall be pleased to command respecting the same.

X. \*The dimensions of every inland Township shall be ten miles square, and such as are situated upon a navigable river or water shall have a front of nine miles, and be twelve miles in depth, and they shall be laid out and subdivided respectively in the following manner, viz. :

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\* Plan of a Township on a navigable River or Lake referred to in this article, is printed as Plan No. 2 in the appendix of maps which forms part of the appeal book.

see post page 106 for a response to -  
this viii<sup>th</sup> article

Important power of reservatees,

*Inland Township.*

Reference to a plan of a Town and Township of Ten miles square proposed for an inland situation.

The Town is in the centre, one mile square, and the Town lots each one acre.  
The small squares uncoloured in the centre of the plan contain each four acres and are to be divided into four Town lots.

The open area of half a mile round the Town is to be reserved. The Town parks join this reserve, all round, each containing twenty-five acres, one rood and thirty-seven perches. The Township lots are the large outside lots containing each two hundred and eleven acres and twenty-eight perches.

- A. Reserve for the Crown.
- B & C. Church, parsonage and school-house.
- D. Jail and Court-House.
- E. Work-house.
- F. Church-yard, Hospitals, &c.
- G. Public squares.
- H. Market places.
- I. Town park for a school-master.
- K. Town park for a Minister.

20 Calculation for an Inland Town and Township of ten miles square, containing 64,000 acres.

	Acres.
Public squares, 5 equal plots .....	20
Public buildings, 8 equal plots.....	32
Market places, 4.....	16
For settlers, to be sub-divided into 4 lots each, 104	416
Eight streets from the centre square, 96 feet wide each, the other streets are 60 feet wide each....	156
Reserves round the Town.....	1,920
Town parks, 288 equal.....	7,341·68080
Township lots, 252 equal.....	53,217·05760
Township roads.....	881·26160
Acres.....	<u>64,000·00000</u>

Reserves for the Crown and Public uses, viz. :—

	Acres.
Public squares.....	20
Public buildings.....	32
Market places.....	16
Streets.....	156
Reserves round the Town.....	1,920



	Acres.
Town parks, 2 equal.....	50·58320
Township lots in the corners, 32 equal.....	6,757·72160
Roads in the Concessions, of 66 feet wide.....	881·26160
Glebe.....	422·35760
Schoolmaster.....	211·17880
	<hr/>
	10,467·12280

*Township upon a navigable river or water.*

10 Reference to a plan of a Town and Township of nine miles front by twelve miles in depth, proposed to be situated on a river or lake :—

The Town is one mile square, the Town lots each one acre. The open area of half a mile joining the Town lot to be reserved. The Town parks join the reserve all round, containing each twenty-four acres, one rood, and twelve perches.

The Township lots are the large outside lots, containing each two hundred and three acres, two roods, and four perches.

- A. Reserves for the Crown.
- B.&C. Church, Parsonage and School-house.
- D. Jail and Court-House.
- 20 E. Work House.
- F. Church-yards, Hospitals, &c.
- G. Public squares.
- H. Market-places.
- I. Town park for a Schoolmaster.
- K. do Minister.

Calculations for a Town Lot and Township of nine miles in front by twelve miles in depth, proposed to be situated on a River or Lake, containing 69,120 acres.

	Acres.
30 Public squares, 5 equal to.....	20
Public buildings, 8 equal to.....	32
Market-places, 4 equal to.....	16
For settlers, one acre each.....	416
Eight streets from the centre square, 96 feet wide each, the other streets are 60 feet wide each.....	156
Reserves round the Town.....	1,176·62140
Town parks, 218 equal to.....	5,803·71764
Township Lots, 300 equal to.....	61,060·25400
Township Roads do .....	939·40696
	<hr/>
40	69,120·00000



*Reserves for the Crown and Public uses.*

10

	Acres.
Public squares.....	20
Public buildings.....	82
Market places.....	16
Streets .....	156
Reserves round the Town.....	1,176.62140
Town parks, 2 equal.....	48.65796
Township Lots in the corners, 40 equal.....	8,131.36720
Roads in the Concession, of 66 feet wide.....	989.46700
Glebe.....	407.06836
Schoolmaster.....	208.53418
Acres.....	<u>11,130.71610</u>

And the Surveyor-General's Office shall prepare accurate plans according to the above particulars, which shall be filed in the Council Office to be followed as a general model, subject to such deviations respecting the site of the Town and direction of the roads, as local circumstance may render more eligible for the general convenience of the settlers. But in every such case it shall be the duty of the Surveyor-

20 General and his Agents, or Deputy Surveyors, to report the reasons for such deviation to the Governor or Commander-in-Chief for the time being with all convenient speed.

XI. The Surveyor-General's Office shall prepare a plan of each District of the Province, exhibiting thereon every tract granted under certificate of location, and there shall be added to it from time to time all tracts hereafter to be pledged or promised or granted; and as often as a petition shall have the proper sanction for the patent therein prayed for, the Surveyor-General shall without delay file in the Council Office his returns of survey with such clear description of the tract as shall enable the Attorney-General to prepare the draft of the patent or grant intended to be 30 engrossed for the Great Seal.

XII. The Clerk of the Council shall put the same returns of survey into the hands of the Attorney-General, who shall return them with his draft of the patent into the Office of the Governor's Secretary, to be there stayed, or thence issued, as the Governor may see cause to direct.

XIII. The Surveyor-General's Office shall consult the best means and give correspondent orders to its deputies for preventing unnecessary expense in the surveys; the Crown's interest requiring that the patentee receive no more, nor any other tract, than it shall appear from the patent to be the intention of the Government to



grant him, and the patentee having cause to be contented if the descriptive words in his grant shall enable him to locate and discover with due certainty what tract he is to take; and it being manifest that after such actual surveys as shall be requisite to ascertain any particular Township or tract, the description of another contiguous thereto, or depending thereon, will not require any field work previous to the grant thereof; all subsequent grants in contiguity and succession, properly described in the returns of survey, being connected with, or dependent upon, the accurate description and ascertainment of the first tract surveyed.

XIV. The Committee of the Council for reporting upon petitions for lands shall 10 lay aside all such as contain no specific quantity or location of lands desired, and from time to time cause a notification of such imperfect petitions to be published in the *Quebec Gazette*.

XV. The faith of Government being to be considered as pledged to all such as have acquired, or shall in future acquire, certificates of occupation, in due course the Surveyor-General's Office shall form a schedule of all lots under such certificates in any part of the Province, specifying the petitioners' names, the quantum of the location, the place where, and the date, and a copy thereof shall be lodged in the Office of the Governor's Secretary, another in the Office of the Clerk of the Council, and a copy shall be sent to each of the Boards in the different parts of the Province, and the like 20 practice shall be continued as to all subsequent certificates, at the end of every three months.

XVI. And to the intent that there may be as little trouble and as much expedition as possible, with a saving of all unnecessary expense in obtaining grants and patents, and more especially to favour the Loyalists and other settlers remote from the Capital of the Province, the Secretary shall from time to time notify in the *Gazette*, all such applications for lands as are so far advanced as to be ready for the Great Seal.

Ordered that all the Boards and Officers of the Land-granting Department govern themselves according to the foregoing Rules and Regulations; and that the Clerk of the Council cause the same to be printed, and transmit copies thereof to the different 30 Boards to be made public in their respective Districts, and to all the officers concerned.

Ordered accordingly.



**No. 11.**

(*"Quebec Land Book, 1787 to 1791," Privy Council Office, Ottawa, p. 100.*)

COUNCIL CHAMBER, QUEBEC, 25th August, 1789.

**ADDITIONAL RULES AND REGULATIONS FOR THE CONDUCT OF THE LAND OFFICE DEPARTMENT.**

WHEREAS there is reason to apprehend that delays and abuses have arisen in the Land-granting Department, on account of the distance of the Surveyor-General's Office from its Agents or Deputy Surveyors in various parts of the Province, and that some of the said Surveyors have, in divers instances, attempted to dispose of the waste 10 lands of the Crown without authority, under pretext of executing the King's instructions to the Governor relative to the allotments of lands to be made to disbanded troops, and under other colours and pretences; it is therefore hereby ordered and directed, that all surveyors employed by the Government, under instructions from the Surveyor-General's Office, for making surveys and allotments of the waste lands of the Crown, in any part of the Province, forthwith make reports to the Land Boards for the respective Districts, of all allotments made by them (the said surveyors) specifying their authority, that individuals conceiving themselves secured in the positions of such unauthorized locations as are aforementioned, may be apprized of the error. And the Boards are to keep a vigilant eye over all encroachments by individuals 20 upon the waste lands of the Crown, under pretext of such unauthorized locations, or otherwise; communicating such full information as may be requisite, for discriminating the case of deceived and incautious settlers from other intruders, that those who may reasonably expect the favour of Government may receive such indulgences as their cases may be found to require.

II. No allotments whatever shall henceforth be made by any of the said surveyors, except by the written authority, directions or certificate of the respective Boards. And as often as such certificate or authority of the Board shall come to the hands of the Surveyor to whom the same is directed, it shall be his duty to locate the tract therein mentioned, and give his certificate of location to the intended grantee 30 at the foot or on the back of the authority of the Board accordingly.

And as often as an order of the Governor-in-Council issues for a grant of lands to be made, the Clerk of the Council shall transmit a copy thereof to the Board of the District in which the lands to be granted are situated, to enable the Board to give the authority before directed for the tract being located by the Surveyor.

III. The Boards are to take care, that the orders contained in the tenth Article of the Rules and Regulations for the conduct of the Land-office department, of the 17th of February last, relative to the dimensions, and subdivisions of Townships, be duly executed by the different Surveyors; and for this purpose the said orders are here inserted at length for the information and guidance of the Boards, viz.:—



The dimensions of every inland Township shall be ten miles square, and such as are situated upon a navigable river or water, shall have a front of nine miles, and be twelve miles in depth.

The Town-plot in every Township shall be one mile square. In an inland Township it shall be situated in the centre thereof; and in a Township upon a navigable river or water, it shall be in the centre of the front bordering upon the river or water.

Every Town lot shall contain one acre, more or less.

Every Town park shall contain twenty-four acres, more or less.

Every Farm lot shall contain two hundred acres, more or less.

10 G. There shall be a Public square or parade, in the centre of the Town, containing four acres, more or less.

G. There shall be four more Public squares or parades of the like extent at equal and convenient distances from the centre.

B. A Square of four acres more or less, shall be reserved on each side of the C. centre square for places of Divine worship, one Parsonage house, one School-D.E. house, a Court or Town house, a Prison and a Poor or Work-house.

F. A Square of four acres, more or less, shall be reserved at each of the four corners of the Town-plot, for a common Burying-ground, Hospital, &c.

Four Squares of four acres each, more or less, shall be reserved for Market-

20 H. places, at the four extremities of the Town, in a line with, and at equal distances from the four corners.

The eight principal streets leading from the centre Square shall be ninety-six feet wide. All other streets shall be sixty feet wide. All the squares shall be open at the angles or corners.

A. An area of half a mile more or less, in depth, surrounding the Town, shall be reserved for works of defence if necessary, or such other disposition as shall be thought proper at a future period.

The Town-parks shall adjoin and surround the area just mentioned, and shall be two hundred and eighty-eight in number in every inland Township, and two 30 hundred and eighteen in number in every Township situated upon a navigable river or water.

I. One Town-park shall be reserved for a Minister, and one for a School-K. master, adjoining each other.

The remainder of the Township shall be laid out in Farm lots, the number of which in every inland Township is to be two hundred and fifty-two, and in every Township situated on a navigable river or water, three hundred.

Two Farm-lots shall be reserved for a Minister, and one for a School-master situated behind the Town-parks, to be reserved for them respectively, and in that division of the farm-lots which is nearest to the Town.



A. In each of the four corners of every inland Township, eight farm-lots adjoining each other shall be reserved in the hands of the Crown.

In each of the four corners of every Township, situated upon a navigable A. river or water, ten farm-lots adjoining each other, shall be reserved in the hands of the Crown.

The roads in every Township shall be sixty-six feet wide.

[Copies of the approved plans, according to the above particulars, filed in the Council Office, are to be transmitted to each of the Boards for their more particular information.]

10 The letters in the margin refer to the plans above mentioned.

IV. And inasmuch as local circumstances may sometimes render a deviation from the foregoing orders, respecting the site of the Town, and the directions of the roads, more eligible for the general convenience of the settlers, the Boards are hereby authorized to direct such deviations therefrom, in the said particulars, as the circumstances may require; but the surveyors shall, on no pretense whatever, make any deviation from the general orders, in these, or any other respects, but by the written authority of the Boards.

And it shall be the duty of the Boards, in every such case, to report the reasons for their act, to the Governor or Commander-in-Chief for the time being, with all 20 convenient speed.

V. For the exercise of due caution in the ordering of any such deviations from the general models respecting the sites of Towns, and the directions of roads, as may be authorized by the Boards under the preceding Article, it shall be the duty of the Boards, as often as one or more new Townships are to be laid out, to call in the Magistrates, the Officers of the Militia and other intelligent planters of the vicinity thereof, or the District at large, as the importance of the case may require, to assist in their deliberations respecting the aforesaid particulars; the majority of whom, and of the Members of the Board present, shall determine the necessity of the deviation proposed and the proper spot for the Town, and the proper directions of the roads in 30 every such Township, and the Board shall thereupon proceed to authorize and report the same, as directed in the preceding article.

VI. With respect to all Townships laid out prior and not according to the foregoing regulations, (many of which Townships are now considerably advanced in their settlements), the Boards are nevertheless to deliberate and fix upon the proper sites for Towns, Town-parks, Glebes for a Minister and School master, and the directions of the roads in the manner directed in the preceding article. If the choice shall fall upon lands already located in due form, the consent of the occupants or rightful claimants must first be obtained, by an agreement between them and the inhabitants of the Township in general; to facilitate which, the Boards are hereby authorized

upon a navigable water  
ten farm lots shall be reserved

to give them, severally, certificates directed to one of the acting surveyors of their District, for as many acres of the vacant lands of the Crown, in that or any other Township, as they shall have relinquished their claim to, by the agreement so made.

VII. As often as the complete execution of the directions contained in the third article of these Regulations shall be prevented by reason of the necessary space for that purpose being already under promises of grants to individuals who may be unwilling to relinquish their claims to the same, the Boards are to observe the following order in providing spaces for the general convenience for the Township, viz. :—

1. One or more place or places for the public worship of God.
- 10 2. A common burying ground.
3. One parsonage house.
4. A common school-house.
5. A Town park for one Minister.
6. A Town park for one Schoolmaster, common to the Town.
7. A glebe for one Minister.
8. A glebe for one Schoolmaster, common to the Town.
9. The Court or Town house.
10. The prison.
11. The poor or work house.
- 20 12. A Market place.

Proceeding therein, and in the other offsets pointed out in the third article of these Regulations, as far as circumstances may permit.

VIII. As often as the settlements of the Farm lots in a Township are sufficiently advanced, in the opinion of the Boards, to render the distribution of the Town lots useful for the establishment of Mechanics, and the erection of a Church, Parsonage and School house, &c., the Boards are to order the Surveyor to lay out the Town lots, and number the same; after which the Boards are to receive applications, and upon due examination of the character and pretensions of the petitioners, to issue to them certificates, for such lots, in the usual manner.

- 80 IX. The Boards shall not issue any certificate for more than one Town lot of one acre, or one Town lot and one Town park of twenty-four acres together, to the same person (being the head of a family), and this only upon condition of his building a dwelling house on such Town lot, and occupying the same, within the space of one year from the date of the certificate. And in cases of competition the Boards are to give the preference to such applicants for whose trades and occupations the respective lots, on account of their situation near the water or otherwise, may be best calculated; and to such sober and industrious mechanics whose trades are most necessary to the convenience of the Township in general. And the Boards are to be particularly careful to discountenance frivolous applications, and not to 40 authorize any transfers of unimproved Town lots and Town parks which only tend



to create a mischievous monopoly of the ground.. Nor shall any Town parks be granted separately from Town lots, the former being intended for the convenience of the settlers upon the latter; and a failure in the conditions upon which the Town lots are granted shall operate the forfeiture of both.

X. Nothing contained in the foregoing Rules and Regulations, shall be construed to prevent the Surveyor-General or Deputy Surveyor-General, from the execution of their duty and instructions, in whatever part of the Province either of them may be present; nor to extend to the abolition, relaxation, or restriction, of the accustomed chain of duty or Official intercourse, between the Surveyor-General's Office and its 10 Agents, or Deputy Surveyors respectively, in any part of the Province.

Signed by order of the Committee.

Friday, 21st August, 1789.

(Signed) WM. SMITH,  
*Chairman.*

His Lordship was pleased to signify his approbation of the Rules and Regulations reported by the Committee, suggesting only as an amendment of the third article that the concluding sentence thereof, beginning with the word "Copies" and ending with the word "information" be struck out, and that the following words be substituted instead thereof, "and all streets and roads are to intersect each other at 20 right angles, at the distances and in the directions laid down in the approved plans filed in the Council Office, according to the foregoing particulars, copies of which are to be transmitted to each of the Boards for their more ample information."

The Board concurring in the amendment it was ordered by His Lordship that the Clerk cause the amended rules and regulations to be printed and that he transmit copies thereof to the different Boards and to the Surveyor-General's Office for their government.

## No. 12.

MINUTES OF COUNCIL APPROVING OF ADDITIONAL RULES AND  
REGULATIONS FOR THE CONDUCT OF LAND OFFICE  
DEPARTMENT, DATED 26TH AUGUST, 1789.

(*Quebec Land Book, from 1787 to 1791—Upper Canada, Pages 97–98.*)

WEDNESDAY, 26th August, 1789.

PRESENT:

His Excellency the Right Honourable Lord Dorchester.

The Honourable Willian Smith, Esq., Chief Justice,

" " "	Hugh Finlay, Thos. Dunn, Ed. Harrison, John Collins, " A. Mabane, " J. G. C. DeLéry,	George Pownall, Henry Caldwell, William Grant, Francis Baby, Chas. De La Naudière, Esquires.
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Read, the following report :



" To His Excellency The Right Honourable Guy Lord Dorchester, Governor-General of the Province of Quebec, &c., &c., &c.

" My Lord,—The Committee of the whole Council, to whom it was referred, to consider what additions might be expedient for the conduct of the Land Office Department have had several meetings for deliberating upon that subject; and submit their journal annexed hereto, containing the additional Articles, which the Committee conceive adequate to the several objects of the Reference \* \* \*."

His Lordship was pleased to signify his approbation of the Rules and Regulations reported by the Committee, suggesting only as an amendment of the third Article, 10 that the concluding sentence thereof beginning with the word "Copies" and ending with the word "information" be struck out, and that the following words be substituted instead thereof:—

" And all streets and roads are to intersect each other at right angles, at the distances and in the directions laid down in the approved plans, filed in the Council Office, according to the foregoing particulars, copies of which are to be transmitted to each of the Boards for their more ample information.

" The Board concurring in the amendment, it was ordered by His Lordship, that the Clerk cause the amended rules and regulations to be printed, and that he transmit copies thereof to the different Boards and to the Surveyor-General's Office, 20 " for their government."

### No. 13.

#### MINUTES OF NASSAU LAND BOARD FROM 26TH OCTOBER, 1789, TO 3RD MAY, 1791.

Land Board for the district of Niagara, constituted by His Excellency Lord Dorchester's letter of 13th October, 1788, addressed to Lieut.-Col. Hunter or officer Commanding. Lieut.-Col. Butler, Peter Ten Broeck, R. Hamilton, Benj. Pawling and Nathaniel Pettit, Esquires, held their first meeting at Navy Hall, immediately after the January Quarter Sessions of 1789. They having before that time stated to the Governor their reasons for holding the Regular Boards of examinations at the same 30 time with the Quarterly Courts, that the Settlement being then mostly brought together, the Claimant could with ease procure the testimony of his former acquaintance in his favour, and it furnished also an opportunity to the Settlers to detect and point out such characters as were unworthy a place among them.

At that time the Board had no particular instructions to guide their conduct. Proceeded to examine into the Loyalty but more particularly into the character of all such persons claiming a Settlement as appeared before them. To such as were



approved of, they administered the Oath of " Allegiance " and directed the Surveyor to give them a Ticket specifying the quantity of land they and their families were entitled to. All these claimants were already settled, some on the surveyed lands, others on the waste land adjoining.

A Committee of the Board to accommodate themselves to the convenience of the Settlement went in February to Fort Erie where all the claimants of that quarter were directed to attend. Here they followed the same plan as also after the subsequent Quarter Sessions held in April. The Surveyor at these meetings kept a list of all such as were permitted to become settlers.

- 10 In the course of the Summer and Fall they received the printed Rules and Regulations for their Conduct of February 17th, as well as the additional instructions of August 21st, and the first Regular Board was held at Niagara October 26th, 1789.

PRESENT :

Lieut.-Col. Harris,  
Lieut.-Col. Butler  
and R. Hamilton.

The various Letters and printed Rules and Regulations for their Conduct being laid before them, the Board proceeded to read the same, and no other business being then before them they adjourned the Board until the 29th instant, then to meet at 12 Miles Creek in Hamilton, as on that day a Muster of the Militia of the lower District was to be made there, and it was thought expedient as much as possible to save the time of the settlers.

LAND BOARD, HAMILTON, October 29th, 1789.

PRESENT :

Lieut.-Col. Butler,  
Peter Ten Broeck,  
R. Hamilton  
and Nath. Pettit, Esquires.

Which day the Board proceeded to examine particularly the different Rules and Regulations sent them for their Conduct, and they adopted the following data as what they understood to be the intention of the Government and by which they are to guide themselves in assigning lands to claimants.

They consider His Majesty's instructions of 1783, addressed to Governor Haldimand, as conferring :

1,000	Acres to any Field Officer.
700	" " Captain.
500	" " Subaltern, Staff or Warrant Officer.
200	" " Every Non-Commissioned Officer.



100 Acres to any Private Soldier, and the same quantity to the head of a family, being a Loyalist.

50 " " Every Loyalist, a Single man.

50 " " Individual of which the families of all the above persons shall consist.

LAND BOARD, NIAGARA, 3rd May 1791.

PRESENT. R. Hamilton,

John Burch,

John Warren,

Robert Kerr,

John McNabb,

Esquires.

10 Mr. Hamilton laid before the Board a letter from Henry Motz, Esquire, accompanying Lord Dorchester's Order for an Augmentation and Continuance of the Land Granting Department from the 1st May, 1791, to the 1st June, 1793. The new Members are John Burch, John Warren, Robert Kerr, and John McNabb, Esquires, of the Board : any five are a quorum.

" The Board having observed that the intention of Government in keeping Roads along the River from the Landing to Chippeway Creek has not been attended to by the inhabitants occupying those lands, and who cannot be ignorant of a Chain being left by the Surveyors for that purpose, the Board Order that as soon as the present crops are got in the people do then move their fences, and open the 20 Road to the breadth of the chain, of which the Clerk is directed to give them notice of."

The Board proceeded to grant certificates to such persons as attended.

Agreed that the Board in future meet on the 1st Monday in every month.

Adjourned to the 1st Monday in June.

## No. 14.

### REPORT AND JOURNAL OF THE COMMITTEE FOR INLAND NAVIGATION AND COMMERCE RESPECTING THE NEW COMMUNICATION— QUEENSTOWN TO CHIPPEWA.

On FRIDAY, the 14th October, 1791.

30 At the Council Chamber in the Bishop's Palace.

PRESENT :

His Excellency Major General Clarke, Lieutenant-Governor and Commander-in-Chief,

And the Honourable Hugh Finlay,

John Fraser,

" Edward Harrison,

William Grant,

" John Collins,

François Baby,

" Adam Mabane,

Samuel Holland,

" J. G. C. De Léry,

Le Cte Dupré, Esquires.

John Burch

8 May 1791	at Land Road	
19 July 91	John Burch - offering to have of the contractor to forward his stores etc.	70
<u>3 Sept 91</u>	one ss - the contract See page and page Paid	1. 14 76
7 Nov 1792 - <del>Recd</del> Ex 18. note that Burch was located in 1786		104
15 July 1794 - Ex 22 recd		107
14 Feb 1795 - Ex 23 a. recd at		109
Aug Jones W.	Burch's mill	197
Deanes W.	do & Land Road Burch lease & the roads from 9. 1795	205

The State oaths and declarations, and oath of Privy Councillor were administered to the Honourable John Fraser, Esquire.

His Excellency the Lieutenant-Governor took the oath of office of judge of the Court of Appeals.

His Excellency was pleased to appoint Messrs. Dunn, Harrison, DeLéry, Grant and Baby to be a committee for the examination of the contingent demands upon Government for the six months ending the 10th instant, also the amounts of the Receiver-General's Office for the last six months, and those of the Collector respecting the collection of the Provincial Duties for the year ending the 10th instant, to 10 be reported to His Excellency with all convenient speed.

His Excellency communicated to the Board a Report and Journal of the Committee for Inland Navigation and Commerce relative to proposals made for the carriage of His Majesty's stores and effects from the landing place of Niagara to Chippeway Creek by the new road on the west side of Niagara River; which were ordered to be entered in the Minutes of this day.

#### THE REPORT AND JOURNAL:

" To His Excellency Alured Clarke, Esquire, Lieutenant-Governor and Commander-in-Chief of the Province of Quebec, &c., &c., &c., Major-General commanding His Majesty's forces in America, &c., &c., &c.

20 " May it please Your Excellency,

" The Committee of Inland Navigation and Commerce have had several meetings on His Excellency the Right Honourable Lord Dorchester's Reference of the 9th of August last, relative to the proposals made for the carriage of His Majesty's stores and effects from the landing place of Niagara to Chippeway Creek by the new road on the west side of the Niagara River. They pray Your Excellency to be pleased to receive, as their report thereon, the annexed Journal of their proceedings, humbly submitting the same to Your Excellency's great wisdom.

" Signed by order of the Committee,

(Sd.) WILLIAM GRANT,

30

" Chairman.

" Council Chamber, Quebec, 2nd September 1791."

" COUNCIL CHAMBER, QUEBEC, 30th August 1791

" At a meeting of Committee for Inland Commerce and Navigation:

#### PRESENT :

William Grant, Chairman,  
François Baby,  
Le Comte Dupré, Esquires.

#### ABSENT IN THE COUNTRY :

George Davidson,  
Samuel Holland, and  
Charles De La Naudière, Esquires.

40



"The Chairman read and laid before the Committee Mr. Secretary Coffin's letter dated the 9th instant, together with the eight enclosures as follows:—

" QUEBEC, 9th August 1791.

" SIR,—Proposals having been received for the transport of Government effects over the carrying place on the west side of the Niagara River, I am directed by His Excellency Lord Dorchester to enclose them, with the papers, as per schedule for the consideration of the Committee for Inland Navigation and Commerce, who will report upon the several proposals, and the mode of carrying into execution that which they think best to be adopted, and for which purpose they will consult 10 " with the King's law officers.

" I am, Sir, your most obedient humble servant,

" THOMAS ASTON COFFIN.

" The Honourable WILLIAM GRANT, Esq.,

" Chairman of the Committee for Inland Navigation and Commerce."

" *Schedule of the Inclosures.*

1st. Letter from Philip Stedman, inclosing:

2nd. Proposals of Philip Stedman Jun'r.

3rd. Letter from Forsythe & Richardson offering to be security for Mr. Stedman.

4th. Letter from Isaac Todd, inclosing:

20 5th. Proposals from Hamilton, Forsythe, Cunningham & Burch.

6th. Petition of sundry inhabitants to the Land Board of Nassau.

7th. Extract from the Minutes of the Land Board for the District of Nassau, 20th June, 1791.

8th. Letter from W. B. Sheehan, Clerk to the Land Board, inclosing the above extract.

(Signed) T. A. COFFIN.

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No. 1. Mr. Stedman's Letter:—

" Niagara, 15th July, 1791.

" SIR,—Inclosed I send you my nephew's proposals to enter into contract with 30 Government for the transport on the west side of the river. I shall not urge our family's long services in time of imminent danger to the life and property of the person who undertook it, tho' it is natural to suppose that a preference would be given to an old servant of the public's who had always given satisfaction to the officers who have at different times commanded at Niagara.

" Should the transport of Government stores be taken from us, our case would be particularly unfortunate, as we have made great improvements on the west side of the river, to enable us to carry on the transport business.



" Proposals have been sent you down signed by persons who offer to contract in behalf of the settlement: these men, Sir, for the transport of merchandize, make agreement with farmers for to furnish so many waggons, if required, under the penalty of a certain sum, by which means they oblige them to neglect their farms, each carrier seldom or ever get more than ten or a dozen loads during the season, many times returning some miles to their homes without being employed (tho' obliged to attend), the business being divided among so many. The carriers pay five per cent to those who employ them to transact their business, and at the end of the year are obliged to take merchandize in payment or never expect to be employed after, by 10 which it is evident the contractors reap all the profits from the poor carrier.

" We employ as many men as the transport business requires, consequently must be as much benefit to the settlement in general as those who pretend to contract for the good of the settlement only a specious pretext to ensure a sale for their goods.

" Messrs. Forsythe, Richardson & Co. have been our agents these some years past. " Should they decline being my nephew's security for five hundred Pounds, " Halifax Currency, I will be in Quebec the latter end of August (being obliged to go " to Detroit) when I will give my Bond or find such security as may be required.

" I am with great respect, Sir,

20

" Your most obedient humble servant,

" (Signed) PHILIP STEDMAN."

JOHN CRAIGIE, Esq.,  
Commiss'y and Store-keeper Gen'l.

" No. 2.

" NIAGARA, 15th July, 1791.

" SIR.—As I have incurred very heavy expenses in purchasing cattle and horses " in order to render my services more beneficial to Government, and having these " two years past sustained losses very considerable by the death of cattle for which I " have received no compensation; and being already furnished with a great stock 30 " of cattle, waggons, &c., and a farm so situate on the west side of the river, that " would enable me to transport the Government stores more expeditiously than any " other person or persons whatever in this settlement, although a few individuals " have proffered to contract in behalf of the Settlement (with a view of paying the " carriers in merchandize) to the great detriment of agriculture, as some have " severely experienced these two years past in the carriage of merchandize, the trans- " port being divided among so many.

" Having given proof of my ability to fulfill the expectations of Government, " and as the price of labour and cattle is lower than formerly, I will engage to trans-



" port all kinds of Stores, Provisions, &c., which may be ordered to pass over the  
 " carrying place of Niagara for the use of Her Majesty's Troops and Garrisons at the  
 " rate of one shilling and eight pence, York currency, per Gross Hundred Weight ;  
 " out of which I will agree to pay, if required, two pence York currency for every  
Gross Hundred Weight taken over the carrying place in my Waggons, towards  
defraying the expenses of keeping the roads, &c., in repair, which will reduce my  
price to eleven pence farthing, Quebec currency.

" I will keep a sufficient number of horses, oxen, &c., to carry over ten tons per  
 " day, and a carriage to carry forty hundred weight, or a large Batteau. I shall be  
 10 " liable to any loss or damage happening to stores, &c., after they are safely put on  
 " the carriages until they are delivered at the proper discharging places ; and will  
 " keep a sufficient number of oil clothes to cover the same while on the waggons.

" Should the proposals which I have the honour to make please His Lordship, I  
 " beg to offer Messrs. Forsythe, Richardson & Co. as my security for five hundred  
 " Pounds, Halifax currency, for the due performance of the above ; and appoint  
 " Messrs. Lester and Morrogh, my Agents, to contract for three years on the before-  
 " mentioned terms.

" I have the honour to be, Sir,

" Your very humble servant,

20 " (Signed) PHILIP STEDMAN, Junior."

JOHN CRAIGIE, Esq.,

Commissary & Store Keeper General.

" No. 3.

" MONTREAL, 26th July, 1791.

" SIR.—Mr. Philip Stedman, of Niagara, having made proposals to you for the  
 " transport of the effects of Government over the carrying place there, we hereby  
 " become his security for the performance of the engagements he enters into, to  
 " amount of five hundred Pounds currency, on being made acquainted with the pro-  
 " posals he makes, of which we have from him no knowledge.

30 " You will please signify to us whether Mr. Stedman's proposals will be accepted  
 " of, and whether you require a more formal writing as security, which we shall be  
 " ready to enter into on knowing the conditions.

" We are, Sir,

" Your most obedient servants,

" (Signed) FORSYTHE, RICHARDSON & CO.

JOHN CRAIGIE, Esq.,

Quebec.



*Ex 14*

"No. 4.

" MONTREAL, 28th July, 1791.

" SIR, — Yesterday I received the inclosed proposals for the transport of Government effects over the carrying place at Niagara. The proposers have sent a power of attorney to transact this business for them. If they get the contract I will enter into any engagement and security, you may think necessary, for their due performance. The price they offer to contract for, is 3d. per quintal under the present price, and as low as they think it can be done, but as the inhabitants have partly prepared for it, they have authorized me to propose to do it on as low terms as any 10 " offer you may receive from an individual, and they trust the reasons they have given, and the encouragement to the settlement will entitle them to a preference, " which is all they require.

" I am, Sir,

" Your most obedient, &c.,

" ISAAC TODD."

" JOHN CRAIGIE, Esq."

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" No. 5.

" Plan for the portage of the effects of Government on the west side of the Niagara River.

20 " For these two years the merchandize and peltries of the Upper Country have been all transported by the inhabitants on this side, without the least delay, with advantage to the undertakers and with satisfaction to their employers. The plan adopted was allowing every person who thought proper, if of respectable character, and who had taken an oath of trust, to join in this business, only securing at all times when wanted the services of those who thus joined. In no one instance has it yet been found necessary to complain of want of attendance. The encouragement afforded the settlement by this has been so great, that two teams are this season in employ for every one of last year and more are preparing. If not constantly employed still what little they gain assists them much, and the oxen they must necessarily 30 keep for this purpose enables them to go on in their farms with spirit and advantage. To increase this encouragement the subscribers having fully secured themselves in the portage of double the quantity daily required by advertisement, now make the following offer :—

" We will adopt a similar plan to the one at present established of employing every inhabitant of the settlement of a fair character who shall offer his services regularly in their turn. To render the good as general as possible we will not permit any person to employ more than two teams at one time, unless the hurry of business shall absolutely require it.



" We will engage to find teams every day when demanded to carry over ten tons of stores, with one or more carriages to carry a large Batteau or any thing to the weight of two tons. We will take care that every thing that can be damaged by the weather shall be secured by oil cloths, and will be answerable for any deficiency that may occur when ascertained of the same by the agents employed, and the carriage pointed out where the deficiency happened. On this plan we will undertake for transporting the whole of the effects of Government for the next three years commencing on the 10th of March 1792 and accept in full compensation for this service the sum of one shilling and nine pence New York currency per gross 10 quintal of 112 lbs. to be paid in Quebec at the end of the season and when the amounts shall be passed; and from this sum we deduct two pence York per quintal for the repair of the roads. We offer the houses of Messrs. Todd and McGill and Co., and Forsythe, Richardson and Co., merchants, Montreal as our securities for the full performance of this contract under the penalty of Five Hundred Pounds Sterling; and we have appointed Isaac Todd, Esq., of Montreal our agent for us and in our name to enter into a contract for the foregoing purposes authorizing him to act for us in every respect as if we ourselves were present.

" Niagara, 19th July, 1791.

20

(Sd)	R. HAMILTON,
"	GEO. FORSYTHE,
"	JOHN BURCH,
"	ARCH'D CUNNINGHAME."

" No. 6.

" To the Honourable the Land Board for the District of Nassau.

" The Petition of Adam Vrooman, John McEwan, Thomas Cummings and others, for themselves and the inhabitants of Niagara situated near the portage,

HUMBLY SHEWETH :

" That the effects of the merchants trading to the Upper Country have by them for these two years been transported across the portage without delay, at reduced 30 prices, with advantage to the undertakers, and they believe to the satisfaction of their employers.

" They now understand by advertisement, that the effects of Government are to be carried next season by the same route; and they pray the Land Board will obligingly interest themselves in procuring that this may be established on such a footing as may render it a general good to the settlement. To effect this they beg leave to state the present plan, and to suggest that something similar for Government effects may have the desired effect.

" The merchants trading to the Upper Country having appointed Robert Hamilton and George Forsythe their agents for forwarding goods, they have become bound 40 to secure to their employers the transport of their effects with all necessary expedi-

$\frac{1}{9}^{\text{d}}$  per gross quintal of 112 lbs - and  
deduct two pence per quintal for the  
repair of the Roads

Petition of inhabitants near the Portage

tion and safety. They have, without prejudice or partiality, employed every person of respectable character; and who has taken an oath of trust, in this business, only securing themselves in the services of these persons at all times when wanted, by a heavy penalty; and to render the good as general as possible prohibiting any person from employing more than two teams in the portage. To endeavour to secure to the settlement the advantages of the whole of this transport, the subscribers for themselves and every other inhabitant of the district whose situation may make them wish to join, have appointed the same agents, with the addition of John Burch and Archibald Cunningham, to contract with Government on the same general plan; 10 and have secured them by entering into a bond with heavy penalties, to furnish every day when called on, the necessary carriages to transport twenty tons, being double the quantity mentioned in the advertisement, and to fulfil every other article thereby required.

"They think it unnecessary to point out to the Honourable the Land Board the essential advantages that will arise to the settlement from having this business made a general and public good, compared with having it monopolized by any individual, or even by a set of men. And they therefore presume with confidence to hope for every recommendation and aid the Honourable Land Board can give, to effect this desirable purpose, and they shall as in duty bound ever pray.

20      " Niagara, June 21st 1791.

	" (Signed),	ADAM VROOMAN,
	" "	THOS. CUMMINGS,
	" "	JAMES FORSYTHE,
	" "	TIMOTHY SKINNER,
	" "	CHA'S WILLSON,
	" "	HENRY WEISHUKN,
	" "	JOHN McEWAN,
	" "	<u>BENJ. CANBY</u> ,
	" "	DAVID SECORD,
30	" "	IRISH JOHN WILLSON,
	" "	ADAM KRESLER."

" No. 7.

" Extract from the Minutes of the Land Board for the District of Nassau, 20th June, 1791.

" Present,

	" Colonel Gordon, Comm'g Upper Posts.	
	" Lieutenant-Colonel Butler,	Peter Tenbrook,
	" Robert Hamilton,	Benjamin Pawling,
	" Nathaniel Pettite,	John Burch,
40	" John Warren,	John McNabb, Esquires."

" A Petition from a number of respectable inhabitants was presented praying the Board to interest themselves in procuring for the benefit of the settlement at



large the portage of the effects of Government on the west side of Niagara River, and presenting a plan for this purpose. The Board took the same into their serious consideration, and having examined witnesses on the facts stated in the petition, find that the settlement has hitherto performed the portage of the merchandize with ease and advantage to themselves and with celerity and advantage to their employers.

" They find that they are fully equal to the transporting daily twenty tons of  
 " stores in place of ten mentioned in the advertisement and fulfilling every other  
 " part required in the contract; the Board fully sensible of the very essential service  
 " this business may be of to the settlement, do therefore unanimously join in praying  
 10 " Lord Dorchester will have the goodness to adopt the present plan proposed or  
 " some one similar whereby this great end may be obtained, and they direct that the  
 " petition with a copy of this resolution be transmitted to Henry Motz, Esq., to be  
 " by him laid before His Excellency the Commander-in-Chief."

" A true Extract,

" (Sgd) W. B. SHEEHAN,

" Clerk, Land Board, Nassau."

---

" No. 8.

" NASSAU, 20th June, 1791.

" SIR,—I have the orders of the Land Board for transmitting you the inclosed  
 20 " Petition with the extract from the Minutes of their last meeting respecting the  
 " same, and their prayer that you will have the goodness to lay both before His  
 " Excellency Lord Dorchester, from whose well known inclination to promote the  
 " interest of the New Settlements, they hope with confidence for a concurrence in  
 " what will so essentially benefit this part of the country."

" They are aware that this does not immediately come within the line of their  
 " duty as a Land Board, but as a set of men anxious to promote the good of the  
 " community in which they act, they could not pass over the opportunity of recom-  
 " mending in the strongest manner what they think will so considerably promote  
 " this. With the terms of contract the Board do not interfere, they only join in  
 30 " praying His Excellency to grant the preference to the settlement, over any indi-  
 " vidual, or set of men, on the same terms, and the performance equally well  
 " secured."

" I have the honour to be, Sir,

" Your most obedient servant,

" (Signed) W. B. SHEEHAN, Clerk."

" HENRY MOTZ, Esq."

---

Important recommendation addressed  
to Henry Moty who was Lord  
Dorchester's Secretary before 64

*Lord Dorchester  
had gone to England*

" The Chairman observed that the various public business in which the gentle-  
" men of the Committee and the King's Law Officers had been employed previous to  
" the departure of His Excellency Lord Dorchester for England had prevented him  
" from calling upon them at an earlier period upon the present reference.

" That from the papers which had been read it appeared—

" The competitors for the contract for the transport of His Majesty's stores on  
" the west side of the Niagara River carrying place, were Mr. Philip Stedman, Jun'r,  
" the present carrier on the east side, and Messrs. R. Hamilton, Geo. Forsythe, John  
" Burch and Arch'd Cunningham, of Niagara, in the District of Nassau, on behalf  
10 " of themselves and the public.

" The question therefore was, whether in the opinion of the Committee, it was  
" more for the interest of the Crown to accept the present carrier's proposals for the  
" three years ensuing the 10th March, 1792, or adopt those made by Messrs. Hamilton,  
" Forsythe, Burch and Cunningham, solicited by the public, and warmly recom-  
" mended by the Land Board of Nassau ?

" The question being put, the Committee were unanimously of opinion that the  
" plan and proposals of Messrs. Hamilton, Forsythe, Burch and Cunningham were  
" more for the Crown and public interest than Mr. Stedman's.

Whereupon ordered, that the chairman give a copy of this Minute to the King's  
20 Law Officers together with the papers in reference, that they prepare the draught  
of such contract and bond as the case requires, to be laid before the Committee with  
all convenient speed.

" Adjourned to the call of the Chair.

" COUNCIL CHAMBER, 2nd September 1791.

" The Committee met to consider further respecting Government transport from  
Niagara to Chippaway Creek.

" Present, the same members as on the 30th August.

" The Solicitor-General being called upon, laid before the Committee the draught  
of the contract and bond required at their last meeting from the King's Law Officers  
30 which were read.

#### DRAUGHT OF THE CONTRACT.

" Articles of agreement entered into and concluded between His Excellency  
Alured Clark, Esquire, Major-General Commanding His Majesty's Forces in America,  
&c., &c., &c. on the part and behalf of His present Majesty of the one part, and  
Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, all of  
Niagara, in the District of Nassau, in the Province of Quebec, merchants, of the  
other part.

" Whereas the carrying place at Niagara is a post of great consequence as well  
for the passage of Troops as the transport of stores and provisions for His Majesty's



service, the nature of which service renders it indispensably necessary that some responsible persons should be bound by contract with Government under a certain penalty to provide proper cattle and carriages to be ready at all times for those purposes; And whereas on the fifteenth day of April last John Craigie of Quebec Esquire, Commissary and Store-keeper General issued a notification, which was soon after inserted in the Quebec Gazette, that proposals would be received for furnishing by a contract for three years, to commence on the tenth day of March one thousand seven hundred and ninety-two, the whole transport of the effects of Government to be carried from the landing on the west side of Niagara River to Chippaway Creek,  
 10 and that any proposals intended to be made by any person or persons were to be delivered at his office on or before the first day of August last. And whereas the said Robert Hamilton, George Forsythe, John Burch, and Archibald Cunningham having at the instance of many of the principal inhabitants of that settlement delivered in proposals (which have been particularly recommended by the Land Board of the said District as a public advantage and benefit) for transporting over the said carrying place all the effects of Government that may be required, at the rate of one shilling and nine pence New York currency per gross quintal of one hundred and twelve pounds, and having since proposed to transport the same at the rate of one shilling and eight pence New York currency per gross quintal of one hundred and  
 20 twelve pounds, which last proposal (in consequence of a Report of a Committee of the Council for Inland Commerce and Navigation, who conceive it to be also conducive to the interest of the Crown) has been accepted. Be it therefore known by these presents that the said respective parties have mutually contracted, covenanted and agreed and by these presents do mutually contract, covenant and agree in manner following that is to say:—

“Firstly. The said Major-General Alured Clarke for himself and successors, Commanding His Majesty's Forces in the Province of Quebec aforesaid, in consideration of the stipulations hereinafter mentioned to be performed on the part of the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, their  
 30 executors, administrators or assigns, doth covenant, promise and agree on the part and behalf of His Majesty, to and with the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, their executors, administrators and assigns, that he the said Major-General Alured Clarke and his successors as aforesaid, shall cause to be delivered to them the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, their executors, administrators or assigns, all the effects of or belonging to Government that shall be thought necessary by the said Major-General Clarke or his successors as aforesaid to be carried and transported from the landing place on the west side of Niagara River to Chippaway Creek, or from Chippaway Creek to the said landing place, from the tenth day of March one thousand seven hundred and ninety-two to the tenth day of March one thousand seven hundred and ninety-five. And that he the said Major-General Clarke and his successors

10 March 1792 to 10 March  
1795

commanding His Majesty's Forces in the said Province, on the part and behalf of His Majesty, shall and will well and truly pay or cause to be paid to the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, their executors, administrators or assigns, in Quebec at the end of every season during the term of this contract, and when the accounts shall have been passed, the sum of one shilling and eight pence New York currency, equal to one shilling and one-half penny lawful money of the said Province of Quebec, for every gross quintal of one hundred and twelve pounds weight so carried and transported for Government.

"Secondly: The said Robert Hamilton, George Forsythe, John Burch and 10 Archibald Cunningham for themselves jointly and each of them for himself severally and for their and each and every of their heirs, executors, administrators and assigns, in consideration of the covenant above mentioned do hereby covenant, promise, engage and agree to and with the said Major-General Alured Clarke and his successors, commanding His Majesty's Forces in this Province, that they the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, their heirs, executors, administrators and assigns respectively, shall and will for and during the term hereinbefore mentioned faithfully perform the following stipulations, that is to say:—

1st. That they will provide and furnish a sufficient number of teams to carry 20 over ten tons weight of stores or effects of Government, and also one or more carriages sufficient to carry a batteau of thirty three feet long, or a load of forty hundred weight, and that they will carry over from the said landing place on the west side of Niagara River to Chippaway Creek, and from Chippaway Creek to the said landing, the whole of that weight daily when required, at the rate above mentioned of one shilling and one-half penny currency of this Province for every gross quintal of one hundred and twelve pounds weight, payable to them at Quebec at the end of every season, during the term of this contract, and when the accounts shall have been passed.

2nd. That they will provide and furnish a sufficient number of fit and proper oil cloths for the effectual preservation from the weather of all such effects as require 30 that precaution.

3rd. That they will be answerable for and make good and pay to the order of the said Major-General Clarke, or his successors as aforesaid, commanding His Majesty's Forces in the said Province, every loss, damage or deficiency that may occur in the said transport, the same being ascertained by the agents employed by Government.

4th. That they will employ in this duty every inhabitant of the settlement of a fair character who shall offer his services, regularly in his turn.

5th. That in order to render the good of the settlement as general as possible they will not permit any person to employ more than two teams at one and the same 40 time unless the hurry of the business to be performed shall absolutely require it.



✓  
6th. That out of the said sum of one shilling and one-half penny currency of this Province payable for every gross quintal of effects to be transported as aforesaid they will pay or defray the proportion of expense to which the carriage of the effects of Government over the said carrying place may be liable as a contribution or toll for making and repairing the roads thereof, to the amount of one penny one farthing Quebec currency per gross quintal as aforesaid.

“ And for the due performance of all and every the stipulations mentioned in the foregoing covenant, which, on their part, are to be performed, they, the said Robert Hamilton, George Forsythe, John Burch, and Archibald Cunningham, do, by these 10 presents, bind and oblige themselves jointly, and each of them for himself severally, and their and each and every of their heirs, executors and administrators, to our Sovereign Lord the King, his heirs and successors, in the penal sum of five hundred pounds sterling money of Great Britain, payable to His Majesty, his heirs and successors, upon the non-performance of either of the arties or stipulations therein specified.

“ Lastly: It is hereby fully declared and agreed by and between all and every the parties to these presents that the said Major-General Alured Clarke or his successors as aforesaid, shall not be liable or answerable in his or their persons or estates to any action of covenant or other action whatsoever by reason or means of his 20 being on His Majesty's behalf made party to this contract.”

“ In witness whereof the said parties have, to these presents and to an exact duplicate thereof, set their hands and seals at \_\_\_\_\_, in the Province of Quebec, this \_\_\_\_\_ day of \_\_\_\_\_, one thousand seven hundred and ninety-one.”

“BOND.

“ Know all men by these presents that we, Robert Hamilton, of Niagara, in the District of Nassau, in the Province of Quebec, George Forsythe, of the same place, John Burch, of the same place, and Archibald Cunningham, of the same place, merchants; and Isaac Todd and James McGill, of Montreal, in the said Province, merchants, 30 under the firm of Todd, McGill and Company, and Thomas Forsythe and John Richardson, of Montreal, aforesaid, merchants, under the firm of Forsythe, Richardson and Company, are held and firmly bound to our Sovereign Lord the King, in the sum of five hundred pounds lawful money of Great Britain, to be paid to our said Lord the King, his heirs and successors, for the true payment whereof we bind ourselves jointly and severally, our and each and every of our heirs, executors and administrators, firmly by these presents, sealed with our seals, dated the \_\_\_\_\_ day of \_\_\_\_\_, in the thirty \_\_\_\_\_ year of the reign of our Sovereign Lord George the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, & so forth, and in the year of Our Lord, one thousand seven hundred and ninety



“ Whereas the above bounden Robert Hamilton, George Forsythe, John Burch, and Archibald Cunningham, by certain articles of agreement bearing equal date with these presents, made, or mentioned to be made between His Excellency, Alured Clarke, Esq., Major-General, Commanding His Majesty’s Forces in America, &c., &c., &c., on the part and behalf of his present Majesty, of the one part, and the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, of the other part, have covenanted, promised, engaged and agreed to perform and execute the several stipulations therein specified touching and concerning the carriage of stores and effects of Government from the landing place on the west side of the Niagara River to Chippaway Creek, and from Chippaway Creek to the said landing place, from the tenth day of March, one thousand seven hundred and ninety-two, to the tenth day of March, one thousand seven hundred and ninety-five, at the rate therein for that purpose mentioned, and to fulfil all and every the stipulations therein expressed. Now, the condition of the above obligation is such that if the said Robert Hamilton, George Forsythe, John Burch and Archibald Cunningham, their heirs, executors, administrators and assigns, shall and will well and duly perform, fulfil and execute all and every the clauses, covenants and stipulations on their part to be performed, fulfilled and executed according to the said articles of agreement, then the above obligation to be void, otherwise to remain in full force and virtue.

20     “Signed, sealed and delivered.

The Committee approved thereof, and ordered—

“That the Chairman report the same, with the journal of their proceedings, to His Excellency the Lieutenant-Governor.

Adjourned to the call of the Chair.

“ From the Minutes of the Committee.

(Sd,)     WILLIAM GRANT, *Chairman.*”

His Excellency informed the Council that he had caused notification to be given to Messrs. Hamilton, Forsythe, Burch and Cunningham that he should accept their proposal as recommended by the Committee.

30     Read, the report and journal of the Committee appointed to take into consideration the state of the Ferry at Jacques Cartier and other matters relating thereto, dated the 6th instant, and the several papers connected therewith.

Ordered by His Excellency that the same be referred to a Committee of the whole Council to report with all convenient speed.

His Excellency acquainted the Council that the Honourable George Davidson, one of the Members of this Board, having applied for leave of absence on account of his ill state of health, the same had been granted him for a twelve month from this date.

(Book “*Quebec Privy Council, I.*” Page 279.)



**No. 15.**

*Made here want  
to write this to  
you June 1851*

PROCLAMATION OF LIEUTENANT-GOVERNOR SIMCOE RESPECTING  
GRANTS OF CROWN LANDS, DATED 7TH FEBRUARY, 1792.

A proclamation to such as are desirous to settle on the lands of the Crown in the Province of Upper Canada.

By His Excellency John Graves Simcoe, Esquire, Lieutenant-Governor and Commander-in-Chief of the said Province, and Colonel Commanding His Majesty's Forces, &c., &c., &c.

Be it Known to all concerned, that His Majesty hath by His Royal Commission 10 and instructions to the Governor, and in his absence, to the Lieutenant-Governor, or person administering the government for the time being, of the said Province of Upper Canada, given authority and command to grant the lands of the Crown in the same by patent under the Great Seal thereof; and it being expedient to publish and declare the Royal intention respecting such grants and patents, I do accordingly hereby make known the terms of grant and settlement to be :

*L* *First*,—That the Crown Lands to be granted be parcel of Township: if an inland Township, of ten miles square, and if a Township on navigable waters, of nine miles in front and twelve miles in depth, be run out and marked by His Majesty's Surveyor, or Deputy Surveyor-General, or under his sanction or authority.

20 *Second*,—That only such part of the Township be granted as shall remain, after a reservation of one-seventh part thereof for the support of a Protestant Clergy, and one other seventh part thereof for the future disposition of the Crown.

*Third*,—That no farm lot shall be granted to any one person which shall contain more than two hundred acres; yet the Governor, Lieutenant-Governor, or person administering the Government, is allowed and permitted to grant to any person or persons such further quantity of land as they may desire, not exceeding one thousand acres, over and above what may have been before granted to them.

30 *Fourth*,—That every petitioner for lands make it appear, that he or she is in a condition to cultivate and improve the same, and shall, besides taking the usual oaths, subscribe a declaration (before proper persons to be for that purpose appointed) of the tenor of the words following, viz. “I, A. B. do promise and declare that I will maintain and defend, to the utmost of my power, the authority of the King in his Parliament as the supreme Legislature of this Province.”

*Fifth*,—That applications for grants be made by petition to the Governor, Lieutenant-Governor, or person administering the Government for the time being, and where it is advisable to grant the prayer thereof, a warrant shall issue to the proper officer for a survey thereof, returnable within six months with a plot annexed, and be followed with a patent granting the same, if desired, in free and common socage,



upon the terms and conditions in the royal instructions expressed, and hereinafter suggested.

*Sixth.*—That all grants reserve to the Crown, all coals, commonly called sea coals, and mines of gold, silver, copper, tin, iron and lead; and each patent contain a clause for the reservation of timber for the Royal Navy, of the tenor following:—

" And provided also, that no part of the tract or parcel of land hereby granted  
" to the said and his heirs, be within any reservation heretofore  
" made and marked for us, our heirs and successors, by our Surveyor General of  
" Woods, or his lawful deputy ; in which case, this Our Grant for such part of the  
10 " land, hereby given and granted to the said and his heirs forever  
" as aforesaid, and which shall, upon survey thereof being made, be found within  
" any such reservation, shall be null and void, anything herein contained to the con-  
" trary notwithstanding."

*Seventh.*—That the two-sevenths reserved for the Crown's future disposition, and the support of a Protestant Clergy, be not severed tracts, each of one-seventh part of the township, but such lots or farms therein, as the Surveyor-General's return of the survey of the township, shall be described as set apart for these purposes, between the other farms of which the said township shall consist, to the intent that the lands to be reserved may be nearly of the like value with an equal quantity of  
20 the other parts to be granted out as aforementioned.

*Eighth.*—That the respective patentees are to take the estates granted to them severally free of quit-rent and of any other expenses, than such fees as are or may be allowed to be demanded and received by the different officers concerned in passing the patent and recording the same, to be stated in a table authorised and established by the Government, and publicly fixed up in the several offices of the Clerk of the Council, of the Surveyor-General and of the Secretary of the Province.

*Ninth.*—That every patent be entered upon record within six months from date thereof, in the Secretary's or Register's office, and a docket thereof in the Auditor's office.

30      *Tenth.*—Whenever it shall be thought advisable to grant any given quantity to one person of one thousand acres or under, and the same cannot be found by reason of the said reservations and prior grants within the township in the petition expressed, the same or what shall be requisite to make up to such person the quantity advised shall be located to him in some other township, upon a new petition for that purpose to be preferred.

And of the said several regulations, all persons concerned are to take notice, and govern themselves accordingly.



Given under my hand and seal, in the City of Quebec, the seventh day of February, in the thirty-second year of His Majesty's reign, and in the year of our Lord, one thousand seven hundred and ninety-two.

JOHN GRAVES SIMCOE.

By His Excellency's command.

THOMAS TALBOT,  
*Acting Secretary.*

(*Journals of Assembly Upper Canada  
Appendix, page 40, 1833-4.*)

10

## NO. 16.

### INSTRUCTIONS TO LIEUTENANT-GOVERNOR SIMCOE, READ BY HIM TO THE EXECUTIVE COUNCIL.

AT THE COUNCIL CHAMBER IN KINGSTON,  
MONDAY, July 9th, 1792.

#### PRESENT:

His Excellency J. G. Simcoe, Esq., Lieutenant-Governor, &c., &c., &c.

The Honourable William Osgoode, Chief Justice.

" James Baby.

" Peter Russell.

20 The Honourable William Osgoode (Chief Justice), and Peter Russell, took the oaths of allegiance, supremacy and abjuration, and subscribed the test, and also took the oath for the due execution of their office as Executive Councillors.

The Honourable James Baby took the oath specified in an Act passed in the 14th year of His present Majesty, and also the oath for the due execution of his office. And the said William Osgoode (Chief Justice), James Baby and Peter Russell were severally admitted of the Council, and took their seats accordingly. His Excellency having been pleased to nominate and appoint Edward Baker Littlehales, Esq., as Clerk of the Council *pro tempore*, he took the usual oaths and subscribed the test.

William Jarvis, Esq., Secretary and Register of the Province, took the usual oaths 30 and subscribed the test.

The instructions were read to the Executive Council and ordered to be copied in the Minute book, as follows:—

Colonel Simcoe - Lt Gov 8 July 1792 to 20 July 1796

1st. You are with all due solemnity before the members of the Executive Council to cause our said Commission to be read and published, which being done, you shall then take and also administer to each of the members of our said Executive Council the oath mentioned in an Act passed in the 1st year of His late Majesty King George the Third, intituled: "An Act for the further security of His Majesty's person and Government, and the succession of the Crown to the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors," as altered and explained by an Act passed in the 6th year of Our Reign, intituled: "An Act for altering the oath of abjuration and the assurance, and for amending so much of an Act of the seventh year of her late Majesty Queen Anne, intituled: 'An Act for the improvement of the Union of the two Kingdoms,' as, after the time therein limited, requires the delivery of certain lists therein mentioned to persons indicted for High Treason," and also to make and subscribe, and cause the members of the said Executive Council to make and subscribe, the declaration mentioned in an Act of Parliament made in the 25th year of the reign of King Charles the Second, intituled: "An Act for preventing the dangers which may happen from Popish recusants." And you and every of them are likewise to take an oath for the due execution of your and their places and trusts with regard to your and their equal and impartial administration of justice; and you are also to take the oath required by an Act passed in the 7th and 8th years of the reign of King William the Third to be taken by Governors of Plantations, to do their utmost that the laws relating to the plantations be duly observed.

You shall also administer, or cause to be administered, the oaths appointed in the aforesaid recited Acts to all persons, except as hereinafter mentioned, that shall be appointed to hold or exercise any office, place of trust or profit in our said Province previous to their entering on the execution of the duties of such office, and you shall also cause them to make and subscribe the declaration mentioned in the aforesaid Act of the 25th year of the reign of King Charles the Second, but in cases where any such office, place of trust or profit in our said Province of Upper Canada, shall be conferred on any of our subjects who may profess the religion of the Church of Rome, you shall so often as any such person shall or may be admitted into any such office, place of trust or profit, administer or cause to be administered to him the oath prescribed in and by an Act of Parliament passed in the 14th year of our reign, intituled: "An Act for making more effectual provision for the Province of Quebec in North America," and also the usual oath for the execution of such office, place of trust or profit, in lieu of all other tests and oaths whatsoever.

Whereas we have thought that there should be an Executive Council for assisting you, or our Lieutenant-Governor, or person administering the Government of our said Province of Upper Canada for the time being; we do hereby by these presents nominate and appoint the undermentioned persons to be of the Executive Council of our said Province, viz :—

The Instructions  
to Lt Governor  
Simcoe - read  
9 July 1792.

There shall be an Executive Council

William Osgoode,  
William Robertson,  
James Baby,  
Alexander Grant,  
Peter Russell, Esquires.

And whereas, by an ordinance passed in the Province of Quebec, the Governor and Council of the said Province were constituted a court of civil jurisdiction for hearing and determining appeals in certain cases therein specified, and whereas by an Act passed in the present year of Our Reign, it is declared that the Governor, 10 Lieutenant-Governor or person administering the Government of the said Province, together with such Executive Council, shall be a court of civil jurisdiction within our said Province for hearing and determining appeals within the same, in the like cases and in the like manner and form and subject to such appeal therefrom as such appeals might have been before the passing of the above recited Act, have been heard and determined by the Governor and Council of Quebec. In order, therefore, to carry the said Act into execution, our will and pleasure is that you do in all civil cases, on application being made to you for that purpose, permit and allow appeals from any of the courts of common law in our said Province unto you and the Executive Council of the Province of Upper Canada, in manner prescribed by the 20 above-mentioned Act, and you are for that purpose, to issue a writ as nearly in the accustomed manner before the passing of the above-mentioned Act, in respect of such appeals as the case will admit, returnable before yourself and the Executive Council of the Province of Upper Canada, who are to proceed to hear and determine such appeal, wherein such of the said Executive Council as shall be at that time judges of the court from whence such appeal shall be so made to you, our Captain-General and to our said Executive Council as aforesaid, shall not be admitted to vote upon the said appeal, but they may nevertheless be present at the hearing thereof to give the reasons of the judgment given by them in the causes wherein such appeal shall be made; Provided, nevertheless, that in all such appeals the sum or value 30 appealed for do exceed the sum of three hundred pounds sterling, and that security be first duly given by the appellant to answer such charges as shall be awarded in case the first sentence be affirmed, and if either party shall not rest satisfied with the judgment of you and such Executive Council as aforesaid, our Will and Pleasure is that they may then appeal unto us in our Privy Council, provided the sum or value so appealed for unto us do exceed five hundred pounds sterling, and that such appeal be made within fourteen days after sentence, and good security be given by the appellant that he will effectually prosecute the same and answer the condemnation, as also pay such costs and damages as shall be awarded by us in case the sentence of you and the Executive Council be affirmed; provided, nevertheless, 40 where the matter in question relates to the taking or demanding any duty payable to us, or to any fee of office or annual rent, or other such like matter or thing, where

Executive Council a Court of Appeal

Limit of appealable

the rights in future may be bound, in all such cases you and the said Executive Council are to admit an appeal to us in our Privy Council, though the immediate sum or value appealed for be of a less value; and it is our further will and pleasure that in all cases where by your instructions you are to admit appeals unto us in our Privy Council, execution shall be suspended till the final determination of such appeal, unless good and sufficient security be given by the appellee to make ample restitution of all that the appellant shall have lost by means of such decree or judgment, in case upon the determination of such appeal, such decree or judgment should be reversed and restitution ordered to the appellant. You and our Executive Council  
 10 are also to permit appeals unto us in our Privy Council in all cases of fines imposed for misdemeanour, provided the fines so imposed amount to or exceed the sum of one hundred pounds sterling, the appellant first giving good security that he will effectually prosecute the same and answer the condemnation, if the sentence by which such fine was imposed in your government shall be confirmed.

And whereas we are sensible that effectual care ought to be taken to oblige the members of our Executive Council to a due attendance, our will and pleasure is, in order to prevent the many inconveniences which may happen for want of a quorum of the Council to transact business as occasion may require, that if any members of our said Executive Council residing in our said Province shall hereafter wilfully  
 20 absent themselves from the Province, and continue absent above the space of six months together, without leave from you first obtained under your hand and seal, or shall remain absent for the space of one year without our leave given them under our royal signature, their places in the Executive Council shall immediately thereupon become void. And we do hereby will and require you that this our royal pleasure be signified to the several members of our said Executive Council, and that it be entered in the Council books of the said Province as a standing rule.

And to the end that our said Executive Council may be assisting to you in all affairs relating to our service, you are to communicate to them such and so many of these our instructions wherein their advice is mentioned to be requisite, and likewise  
 30 all such others from time to time as you shall find convenient for our service to be imparted to them.

You are also to permit the members of our said Executive Council to have and enjoy freedom of debate and vote in all affairs of public concern which may be debated in the said Executive Council.

You are to give warrants under your hand for the issuing of public moneys for all public services, and we do particularly require you to take care that regular accounts of all receipts of payments of public moneys be duly kept, that the same from time to time be audited by your Executive Council, and that copies thereof, attested by you, be transmitted every half year or oftener if there should be occasion,  
 40 to our Commissioners of our Treasury or to our High Treasurer, for the time being,

If members of Exe Council already

places may become void

warrants for issuing public money

and duplicates thereof by the next conveyance, in which accounts shall be specified every particular sum raised or disposed of, to the end that we may take such measures as we may deem necessary for the examination of the said accounts, and that we may be satisfied of the right and due application of the revenues of our said Province of Upper Canada, and with the probability of the increase or diminution of it under every head and article thereof.

You are not to suspend any of the members of our said Executive Council, or to suspend or displace any of the judges, justices, sheriffs or other officers, or ministers within our said Province of Upper Canada, without good and sufficient cause, and 10 in case of such suspension or removal you are forthwith to transmit your reasons for the same to one of our Principal Secretaries of State.

You shall take care, with the advice and assistance of our Executive Council, that such prisons as may at any time be necessary be erected, and that the same already erected be kept in such condition as effectually to secure the prisoners, which now are or may hereafter be confined therein.

And whereas nothing can more effectually tend to the speedy settling of said Province of Upper Canada, the security of the property of our subjects and the advancement of our revenue, than the disposal of such lands as are our property upon reasonable terms, and the establishing regular and proper methods of proceeding 20 with respect to the paying of grants of such lands, it is therefore our will and pleasure that all and every person and persons who shall apply for any grant or grants of land shall, previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same, and in case you shall upon a consideration of the circumstances of the person or persons applying for such grants, think it advisable to pass the same, you are in such case to cause a warrant to be drawn up, directed to the Surveyor-General or other officers empowering him or them to make a faithful and exact survey of the lands so petitioned for, and to return the said warrant within six months at farthest from the date thereof, with a plot or description of the lands so surveyed thereunto annexed, and when the warrant shall 30 be so returned by the said surveyor or other proper officer, the grant shall be made out in due form and the terms and conditions required by these our instructions be particularly and expressly mentioned therein; and it is our will and pleasure that the said grants shall be registered within six months from the date thereof in the Register's office, and a docket thereof be also entered in our Auditor's office, copies of all which entries shall be returned regularly by the proper officer to our Commissioners of our Treasury.

And for the further encouragement of our subjects it is our will and pleasure that the lands to be granted by you as aforesaid shall be laid out in townships and that each inland township shall, as nearly as circumstances shall admit, consist of 40 ten miles square and such as shall be situated upon a navigable river or water, shall

members of the Council judges  
not to be suspended without good and sufficient  
Cause

Prisons to be erected

Disposal of public Lands upon reasonable  
terms

Grants to be made for

Land out in Townships

have a front of nine miles, and be twelve miles in depth, and shall be subdivided in such manner as may be found most advisable for the accommodation of the settlers and for making the several reservations for public uses, and particularly for the support of the Protestant Clergy agreeably to the above recited Act passed in the present year of our reign.

And whereas great inconveniences have heretofore arisen in many of the colonies in America from the granting of excessive quantities of lands to particular persons who have never cultivated or settled the same, and have thereby prevented others, more industrious, from improving such lands; in order, therefore, to prevent the like 10 inconveniences in future, it is our will and pleasure that you observe the following directions and regulations in all grants to be made by you as aforesaid. viz:—

That no town lot shall be granted to any one person being master or mistress of a family, in any township to be laid out as aforesaid, which shall contain more than one acre of land.

That no park lot shall be granted to any one person, being master or mistress of a family, in any township so to be laid out, which shall contain more than twenty-four acres.

That no farm lot shall be granted to any one person, being master or mistress of a family, in any township so to be laid out which shall contain more than two 20 hundred acres.

It is our will and pleasure, and you are hereby allowed and permitted to grant unto every such person, or persons, such further quantity of lands as they may desire not exceeding one thousand acres, over and above what may have heretofore been granted to them; and in all grants of land to be made by you as aforesaid, you are to take care that due regard be had to the quality and comparative value of the different parts of land comprised within any township, so that each grantee may have as nearly as may be a proportionable quantity of land of such different quality and comparative value, as likewise that the breadth of each tract of land to be hereafter granted be one third of the length of such tract, and that the length of such tract do 30 not extend along the banks of any river, but into the mainland, that thereby the said grantees may have each a convenient share of what accommodation the said river may afford for navigation or otherwise.

And as a further encouragement to our subjects who shall become settlers as aforesaid, it is our will and pleasure that the said townships and the respective allotments within the same together with the lands to be reserved as aforesaid, shall be run and laid out by our Surveyor-General of lands for the said Province, or some skilful person authorized by him for that purpose; that surveys together with the warrants and grants for the respective allotments shall be made out for and delivered to the several grantees free of any expense or fees whatsoever, other than such as 40 may be payable to the different officers according to the table of fees to be established upon grants of land made in the said Province.

Instructions as to Granting Lands

Land Grants to be limited

Kings  
Lands to be laid out by the Surveyor General

And in order to prevent any person disaffected to us and our Government from becoming settlers in our said Province of Upper Canada, it is our will and pleasure that no warrants for surveying lands be granted by you, or the Lieutenant-Governor, unless the person or persons applying for the same do, at the time of making such application, besides taking the usual oaths directed by law, also make and subscribe the following declaration in your or his presence, or in the presence of such person or persons as shall by you or him be appointed for that purpose, viz. :—

*"I, A. B. do promise and declare that I will maintain and defend, to the utmost of my power, the authority of the King in his Parliament as the Supreme Legislature of this 10 Province."*

Whereas the reserving such bodies of land within our Province of Upper Canada, where there are considerable growths of timber fit for the use of our Royal Navy, is a matter of the utmost importance to our service, it is our will and pleasure that no grants whatever be made of lands within any district or tract in our said Province of Upper Canada until our Surveyor-General of Woods, or his deputy, lawfully appointed, shall have surveyed the same, and marked out as reservations to us, our heirs and successors, such parts thereof, as shall be found to contain any considerable growth of masting or other timbers fit for the use of our Royal Navy, and more especially upon the rivers. And you are hereby instructed to direct our Surveyor-  
20 General of lands in our said Province, from time to time with all due diligence to complete the surveys and mark out the reservations as aforesaid in the most convenient part of our said Province, and you are from time to time to report the number, extent, and situations of such reservations, and you are further to direct our Surveyor-General not to certify any plots of land ordered and surveyed for any person or persons whatever in order that grants may be made out for the same, until it shall appear to him by a certificate under the hand of our said Surveyor of Woods, or his deputy, that the land so to be granted is not part of, or included in any district marked out as a reservation for us, our heirs and successors as aforesaid for the purpose herein-before mentioned ; and in order to prevent any deceit or fraud from being committed  
30 by the persons applying for lands in this respect, it is our will and pleasure that in all grants to be hereafter made for lands, within our said Province of Upper Canada, the following proviso and exception be inserted, viz. :—"And provided also that no part of the parcel or tract of land hereby granted to the said \_\_\_\_\_ and his heirs, be within any reservation heretofore made and marked for us, our heirs and successors by our Surveyor-General of Woods, or his lawful deputy, in which case, this our grant for such part of the land hereby given and granted to the said \_\_\_\_\_ and his heirs forever as aforesaid and which shall upon a survey thereof being made be found within any such reservations shall be null and void and of none effect, anything herein contained to the contrary notwithstanding."

40 And whereas it is necessary that all persons who may be desirous of settling in our said Province, should be fully informed of the terms and conditions upon which

Grantees to take the Oath of Allegiance

Timber fit for Masts &c for the Royal Navy  
to be reserved.

. And any grant or any reservation shall  
be void

lands will be granted within our said Province of Upper Canada in manner prescribed in and by the said Act passed in the present year of our reign: You are therefore as soon as possible to cause a publication to be made by proclamation or otherwise as you in your discretion shall think most advisable of the said terms and conditions respecting the granting of lands; in which proclamation it may be expedient to add some short description of the natural advantages of the soil and climate and its peculiar conveniences for trade and navigation.

And it is our further will and pleasure that all the foregoing instructions to you, as well as any which you may hereafter receive, relative to the passing grants of land, 10 in conformity to the said Act passed in the present year of our reign be entered upon record for the information and satisfaction of all parties whatever that may be concerned therein.

And whereas it hath been represented unto us that several parts of our Province of Upper Canada have been found to abound with coals, it is our will and pleasure that in all grants of land to be made by you a clause be inserted reserving to us, our heirs and successors, all coals and also all mines of gold, silver, copper and tin, iron and lead, which shall be discovered upon such lands.

If anything shall happen which may be of advantage or security to our Province under your Government which is not herein, or by your commission provided for, 20 we do hereby allow unto you, with the advice and consent of our said Executive Council, to take order for the present therein, provided nevertheless that what shall be done be not repugnant to the said Act passed in the 14th and present year of our reign, giving unto us by one of our Principal Secretaries of State speedy notice thereof, that you may receive our ratifications if we shall approve the same; provided always, that you do not, by colour of any power of authority hereby given you, commence or declare war without our knowledge and particular command therein, except it be for the purpose of preventing, or repelling, hostilities or unavoidable emergencies, wherein the consent of our Executive Council shall be had and speedy notice given thereof to us, by one of our Principal Secretaries of State.

30 And whereas we have thought fit, by our Commission, to direct that in case of your death or absence from our said Province, that in case there be at that time no person commissionated or appointed by us to be our Lieutenant-Governor, the eldest Executive Councillor who shall be at the time of your death, or absence, residing within our said Province of Upper Canada, subject to such other nomination, and appointment by you under the Great Seal of our said Province, as in our said Commission is in that behalf mentioned, shall take upon him the administration of the Government and execute our said Commission and instructions and the several powers and authorities therein contained, in the manner thereby directed; it is nevertheless our express will and pleasure, that in such case the said President 40 shall forbear to assent to any Acts, but what are immediately necessary for the

Terms and conditions of grant, published  
by proclamation which see at p 70

Grants to be cancelled if required

Reservation of all coals and mines

not to declare War, hostilities may be  
repelled

In case of death or absence of Lieutenant  
Governor

welfare of our said Province, without our particular order for that purpose, and that he shall not take upon him to dissolve the Assembly then in being, nor to remove or suspend any of the members of our said Executive Council, or any judge, justices of the peace or other officers, civil or military, without the advice and consent of a majority of the said Executive Council. And the said President is by the first opportunity to transmit to us, by one of our Principal Secretaries of State, the reasons for such alterations, signed by him and our Council. And our will and pleasure is that the above instructions with respect to such President shall also be equally observed by, and binding upon, such other Executive Councillor, as may be 10 nominated and appointed by you under the Great Seal of our said Province by virtue of our said Commission in that behalf.

(*Book "Land and State, A, Upper Canada," page 2.*)

## No. 17.

MINUTES OF COUNCIL WITH REFERENCE TO LANDS GRANTED BY  
LIEUTENANT-COLONEL BUTLER IN THE DISTRICT OF NASSAU,  
DATED 20TH SEPTEMBER, 1792.

AT THE COUNCIL CHAMBER IN NAVY HALL, IN THE COUNTY OF LINCOLN,

September 29th, 1792 (Saturday).

PRESENT:

20 His Excellency J. G. Simcoe, Esq., Lieutenant-Governor, &c., &c., &c.  
The Honourable William Osgoode, Chief Justice,  
" Alexander Grant,  
" Peter Russell.

His Excellency observed, that he had assembled the Executive Council, principally, for the purpose of investigating the location, &c., of lands in the District of Nassau.

John Butler, Esq., (late Lieutenant-Colonel of Rangers) attended, and mentioned having granted lands in the aforesaid District, under the authority of General Haldimand, formerly Governor of the Province of Quebec.

30 Walter Butler Shehan, clerk of the Land Board of the above-mentioned District, attended, and delivered the register book, and six other original documents, concerning the land-granting Department of Nassau; which were ordered by His Excellency to be laid on the table, for the inspection of the honourable members.



The following petition accompanied with a commission from the Right Reverend the Bishop of Nova Scotia, appointing the Reverend John Stuart, Ecclesiastical Commissary was presented and read. \* \* \*

*Resolved*—by His Excellency and the Honourable the Executive Council, that the right of granting matrimonial licenses is not vested in the Reverend John Stuart, and that it is inexpedient for him to make application to the Bishop of Nova Scotia for more special authority.

Adjourned.

## No. 17A.

### 10 REPORT OF CAPTAIN GOTHER MANN, R.E., TO LORD DORCHESTER ON THE MILITARY POSTS IN UPPER CANADA, DATED 29TH OCTOBER, 1792.

A general view of the situation and importance of the several Military Posts in Upper Canada; with a brief description of the Great Lakes and their Communications; together with some remarks on the Frontier, and the Boundary Line of the Province.

The principal object and intention of this Report being to state such circumstances and to convey such necessary information as may best tend to show the nature of our Frontiers in Upper Canada, and conduce to the forming a true idea of 20 our situation in points of convenience, advantage, or security in that quarter; I have here drawn together such observations as occurred, with the information I acquired chiefly in my survey of the Upper Lakes by your Lordship's Orders in 1788; indeed the instructions I then received, led me to the consideration of many points nearly connected with the present subject; but as my Report at that time involved a great variety of matter; and no such parts of it as might apply to the object here more immediately under consideration were much blended with other information, I conceive it may now be more clearly and concisely shewn by speaking distinctly as to what concerns the Frontiers and principal communications only, adding such further particulars as may be necessary here, but which might not have been thought altogether pertinent in my former Reports. In order therefore, as far as lies in my power, to bring forward the requisite information, on which may be formed a clear idea, and an impartial judgment of our real situation, I shall here endeavour to give a concise account of the several principal water communications and carrying places; with the nature and circumstances of the Posts thereon; with such remarks as have occasionally occurred in pursuing my own observations and inquiries on the subject. In doing this I have no hopes of offering anything beyond what your Lordship

Captain Gothe Mann's  
Repair 29 Oct 1792

is already informed of; but it may not now be altogether useless to collect and bring into one view those circumstances, applying merely to the object in question, which may have been at different times stated, together with such other particulars as may also perhaps have been adverted to, but have not been the subjects of any official Reports.

As the trade with Upper Canada, and all the Fur Country to the westward, is chiefly carried on from Montreal, and as this is the point from whence the departure for the Great Lakes is taken, it seems very natural and proper that any account of the communications with them should likewise begin here, I shall therefore conform 10 to that idea.

The River Cataraqui, (or, as it is now sometimes called throughout its whole extent from the sea, the River St. Lawrence) which is the great communication from Lower to Upper Canada, has, owing to the general slope of the country and the obstructions of the rocks, of which the bed of the river is mostly composed, almost a constant succession of rapids and very strong contrary currents from Montreal to Pointe L'Yorogue, which is about two-thirds of the distance to Lake Ontario; so far therefore it is not navigable for any craft drawing more than two or three feet water, and even boats cannot pass safely without the guidance of experienced pilots: the different locks indeed which have been made by Government, have contributed 20 greatly to make the navigation less hazardous and tedious than formerly. From the head of the rapids opposite Pointe L'Yorogue, vessels may navigate into Lake Ontario, they formerly used to go up from Oswegatchie; and in the time of the French from Isle Royale, when the Post of Fort Levi was established there; but the strength of the currents down some of the channels between the islands which lie in the river, together with the prevalence of westerly winds, rendering the passage into the lake very often a tedious and difficult business, the attempt has been for some years discontinued, and neither the King's or Merchants' vessels now go below Carleton Island or Kingston. There is no military post of any importance on this communication between Montreal and the entrance to Lake Ontario. Those at La Chine and 30 Coteau du Lac have no works of defence; nor could any be necessary or useful, unless for the greater security of such provisions and stores, belonging to His Majesty, as are occasionally lodged there in order to be forwarded to the Upper Country, to which end these situations are subservient, and more particularly La Chine, where the first embarkation must take place, as all goods from Montreal are carried there by land, which is nine miles, to avoid the first rapids.

The Fort of Oswegatchie, standing on the southern shore of the River Cataraqui, and at the mouth of another river which here falls into it, and is called the River Oswegatchie or Black River, is at present a post of no defence or consequence, and is now mostly in ruins; if future circumstances should make it desirable to establish 40 any new works here, they must be constructed on the rising ground behind the pre-



sent fort, which is entirely seen into and commanded from it. Indeed I do not at present see that any new post could be taken, with the prospect of much advantage on any part of this communication; the river is in general either so wide, or the practicable channels between the islands are so many and so rapid, that a complete and effectual command cannot be anywhere obtained; in some situations indeed batteries might be in a certain degree useful in obstructing the passage down, but there is not any one of the places which could be chosen for this purpose free from some objection as posts, either on account of the rapidity of the current, or their being commanded by higher ground. Throughout the greatest part of this communication there are a great number of islands dispersed in the river of different magnitudes, some considerable and others extremely small; for several leagues below the embouchure of Lake Ontario they are so very numerous as to form a perfect labyrinth, and have obtained the name of the Thousand Islands. The nature of the shore from Oswegatchie, along that side of the river, to the entrance of the lake is very little known, and has never, as far as I have heard, been thoroughly explored, unless by the Indians.

The boundary line, as it has been described, between this Province and the States of America, continued westward along the parallel of latitude  $45^{\circ}$ , enters the Cataraqui River about forty miles from La Chine at St. Regis, and is said to run "from thence along the middle of the said river into Lake Ontario." The whole therefore of the southern shores from St. Regis westward would thus be separated from the British Territory, but what might be further cut off where there are islands by the line running "along the middle of the river" cannot be so easily determined, as it may be doubted what course exactly to give that line where there is more than one channel, which is the case in sundry parts of this river as well as on other communications hereafter to be described.

The other great communication from Montreal to the Upper Country is up the Grand or Ottawa river, by which and descending the French river which falls into Lake Huron, the distance and time of getting up is greatly shortened, and by this route the Cataraqui River and the Lakes Ontario and Erie, with their communications, are avoided; but the latter must always remain the channel of the first importance, as well on account of the necessary intercourse with the great extent of settled country there, and the navigation of the lakes, as also because all heavy and bulky articles of stores and merchandise, and such as are not easily divisible into portable packages, must be conveyed this way; while on the other hand the chief of the transport which immediately appertains to the trade, will, on account of the shortness of the passage, continue as at present to be carried on in canoes by the Ottawas and French Rivers; the principal inconvenience of that route is the great number of short rapids, which induces the necessity for packages of every kind being made portable for men, so that these as well as the canoes may be carried by land to avoid



such of these rapids as are not navigable or safe ; this it is true is a laborious business, particularly in *ascending* ; for some of the rapids may be used in *descending* without disembarking the cargoes ; but the people habituated to this employ make it an affair of less difficulty than might at first be apprehended, and it will be still less so when the carrying places themselves shall be well cleared and improved : Such are the most material circumstances relative to the two great communications with Upper Canada from Montreal. I have endeavoured to give an idea of the first as far as Lake Ontario ; it may now be proper to say something of the lake itself with its harbours and the military posts thereon, but in describing the several posts 10 of the Upper Country it is not my intention either in this place, or in any other part of this report, to go at all into a detail of the particulars of the works of fortification, as to their construction or figure, or to say much of their good or bad properties in those respects ; but to confine myself to what seems more immediately connected with the object here in view, that of speaking chiefly on what relates to their situations, and in a more general and extensive view, of their use and importance.

At the head of the River St. Lawrence or Cataraqui, and entrance of Lake Ontario, there are two posts, Kingston (formerly called Cataraqui) and Carleton Island ; the first on the north main shore, and the latter near the south shore. Neither of these posts are in a state of any defence, the first has not yet had any 20 works constructed, and those which were formed at the latter are entirely gone to ruin. The harbours at both places are safe, commodious, and well sheltered, and although but small, are sufficiently capacious for every purpose which the navigation of this lake can probably at any time require ; and they are both so near on a par in point of general good properties and convenience for all naval business, that it is difficult to say where the preference ought to lean ; nor could I, when on the spot, draw any satisfactory decision either from my own observations, or from my enquiries on this head even from the naval officers themselves, who were divided in opinion, each place having its advocates. Considering these places as military posts, it is to be observed that they are both also capable of being rendered respectable, with such works as might be made to combine the objects of defence, with the protection of the harbours, naval yards and stores ; but in this point of view, internal strength only considered, I cannot help being of opinion that the advantages are rather on the side of Carleton Island ; partly owing to its insular situation, which must in some respects make it more difficult to be attacked, and also because the ground proper for defence may be taken up in a very simple way, and to an extent on any scale proportioned to the force which might be previously assigned to maintain it. Neither the soil or extent of the island could tempt or allow of any private settlements on it, this would therefore sometimes be an obstacle to the regular supply 30 of the market for the garrison and navy with fresh provisions, an inconvenience to which Kingston could not be subject, as the rapid increase of the settlers in that



neighborhood must make any establishment or government a desirable and convenient market for their produce ; and their numbers might also in point of danger be some resource, and more readily be brought to aid in the defence of the post if necessary, and although, as I before remarked, I think that with a due proportion of internal strength, Carleton Island might be more defensible than Kingston, yet I should be under no great concern for the safety of the latter, if the high ground over the cove to the eastward of the town was properly occupied ; in either situation, however, much must depend on the superiority of naval forces as well here as in every other post on these lakes.

10 The boundary line of the frontier would, it is possible, take away Carleton Island, as lying near the south shore, from our possession ; but it may be difficult to say which of the other islands, and some of them are of considerable extent, at the entrance of the river, would also be excluded.

The next post on Lake Ontario is Oswego, on the south-east shore, and distant from Kingston about sixty miles ; here also there is at present but little defence, the works which were erected at this place in the last war, and called Fort Ontario, being of earth and timber only, are in consequence gone to ruin, except only such a small part of them, proportioned to the strength of the detachment which could be spared for this post, as might make a temporary resistance, and have in that view 20 been kept in repair ; the whole fort would require at least a garrison of five or six hundred men. The harbour (which is the river), although perfectly safe within, and with sufficient water, is not altogether a convenient one ; there is about two fathom and a half of water in the channel going in, but that is so narrow, and the current out is so strong, that it is often difficult to get up ; and it is by no means safe riding at anchor off the mouth of it, as the shores are rocky, and the swell there, from the lake, is very great with a north or north-west wind. Oswego, being at the entrance of, and entirely commanding, the mouth of the Onondaga River, which comes down from the Oneida Lake and from whence there is a direct and easy communication, by means of a short portage, to the Mohawk River, and thence into the 30 Hudson's River through the heart of the State of New York, may certainly be considered as a post of great consequence, being in a great measure the key of this communication, and if in the hands of an enemy would be a very favorable situation for him to bring down and assemble any force he might design to operate against our posts and settlements upon Lake Ontario, or down the Cataraqui River ; the execution of which scarcely anything on our part could effectually prevent but a decided naval superiority ; and that this plan of invasion is perfectly practicable, has already been sufficiently verified by the British Army who took this route to enter Canada in 1760.

The other harbours on the south and east coasts of the lake (besides Niagara, 40 of which I shall speak hereafter) are the Genesee River, and the bays within Les



date 29 Oct 1863  
1863

Isles aux Galops, between Carleton Island and Oswego, but being all of them out of the common track of the vessels they are not used, and the latter, I believe, have never been visited by them, and therefore are not generally known. The whole of this coast with the posts of Oswego and Niagara would, of course, be out of the limits of the Province of Canada should the frontier be bounded by a "line run from "the Cataraqui River along the middle of the lake until it strikes the water communication between it and Lake Erie."

The harbours on the North Shore of Lake Ontario are in the Bay of Quinte and at Toronto. The latter is a very fine one, very safe, capacious, and with depth of water 10 for any vessels. From this place, after passing a portage of about thirty-six miles, there is a short communication (by means of Lake La Clie, and a small river, but not without rapids, which fall into Matchadosh Bay), to Lake Huron, and may hereafter be an object of some consequence to the settlements in that quarter, but I apprehend will never be much frequented on the great scale of trade.

Proceeding now on the great communication of the Upper Country, between the Lakes Ontario and Erie, I shall as concisely as possible just describe the nature of it, with the mode of carrying on the business of the transport upon it.

There are three military posts on this communication, viz.:—Niagara, standing on the *east* shore at the entrance of the river into Lake Ontario, Port Schlosser, 20 between fourteen and fifteen miles above Niagara on the same side of the river, and about a mile and a half above the falls, and Fort Erie about eighteen miles further on the *west* shore of the river at the entrance of Lake Erie; so that the whole length of the communication between the two lakes is about thirty-three miles. The river is navigable without interruption for about seven miles above Niagara, and so far loaded vessels may go up, but a strong leading wind being necessary to stem the current, they are not unfrequently discharged at Niagara or Navy Hall, on the opposite shore, and the goods conveyed up from thence in boats; they are then, on account of the rapids below the falls, obliged to be landed and carried in waggons to Fort Schlosser, where they are again put into boats and carried to Fort Erie, and 30 from that place are taken in vessels to the posts of Detroit and Michilimackinac, or wherever else it may be requisite on the Lakes Erie, Huron and Michigan. Such has been the method of conducting the business on the communication between Lakes Ontario and Erie, partly on one side of the river and partly on the other, until your Lordship ordered a new management to be formed and carried into execution, by which the whole transport would be transferred to the west side, and as the necessary wharves, storehouses and other buildings to be erected for this purpose were in great forwardness when I left Canada last year, I have no doubt that before this time the new system has been fully established, much to the convenience of Government and the trade and settlers in general, notwithstanding the portage is 40 something longer this way than on the other side of the river. This river in its

The Great Communication of the  
Upper Country between the Lakes  
Ontario and Erie

The Communication changed to  
the west side

course is of various breadths, at Niagara it is about seven hundred yards wide, it is less at the landing place below the falls, and at Fort Erie it is two thousand two hundred yards. It is widest at Fort Schlosser. Above this place there are islands, one a very large one.

The post of the first importance in this quarter is Niagara, which commands the entrance of the communication from Lake Ontario. Concerning the actual state and condition of this post as to defence, I shall only observe that nothing was omitted under your Lordship's orders to render it as respectable as its capacity and circumstances would admit of, without breaking new ground and going into the 10 labour and expense of a new system, but the works have been originally constructed on too contracted a scale for the importance of the post, and its capacity has been also for some years in a continual course of diminution, owing to the depredations of the lake, which annually carries away a part of the ground, so that at present there is not left a sufficient interior space for all the necessary purposes of storeroom and the accommodation of the Garrison. A better post for a solid defence may, however I think, be constructed on the opposite side of the river, on the high ground over Navy Hall, and which will be distant from the Fort of Niagara about thirteen hundred yards, and higher than it by about nine feet.

Fort Schlosser being merely a picketed enclosure, never was a post of much 20 defence, and was only of consequence as a convenient station at the head of the portage for a temporary deposit of the goods on their passage, and for such troops as were necessary for protecting and forwarding the transport each way ; its principal object will therefore now be superseded by the new position taken at the Chippeway Creek on the opposite side of the river. Fort Erie is not in a more defensible state than Fort Schlosser, every part of it, both works and buildings, are nearly in ruins except the new wharf and storehouse lately erected for the accommodation of the transport of Government effects. I think, however, that the situation of this place, being at the head of the communication between the two lakes, having a tolerable harbour, and as vessels cannot conveniently go much lower down the river, that 30 under all these circumstances it certainly has a degree of importance, and will therefore demand some attention whenever the system to be established for the security of the frontiers and the necessary protection to the trade and settlements shall be under consideration. With respect to any works of defence which it may be proper to construct here, they ought to be placed on the rising ground at the back of the present fort.

A slight view only of the nature of the communication I have been describing between the Lakes Ontario and Erie, seems sufficient to show that it must always be an object to claim a great share of attention ; but its importance will more fully appear on considering that it is in the heart of what must be a well settled and 40 populous country, and that the convenience of water carriage throughout the great



lakes and to Lower Canada is this way interrupted, on account of the Falls of Niagara, by one portage only, these circumstances together will, of course, render it the vertex to which the bulk of the carrying trade must be drawn as well ascending from thence, as in its descent from the Upper Country, whether proceeding from the Mississippi, by the Wabash and Miami Rivers, the Illinois River and Lake Michigan; or from the great north-western country down the Grand Portage and the Lakes Superior, Huron, and Erie; and it is not improbable should the States of America participate in the navigation of the lakes, that their portion of the trade of the Upper Country would centre chiefly in New York, and that this might also be found the  
 10 most convenient channel of communication for them. To this account of the importance of the communication I am speaking of, in respect to trade with the Indian countries and supplies of the posts, must be added the necessary intercourse of the settlers themselves on these lakes with the lower country. But the degree of consequence in which the passage between the Lakes Erie and Ontario may be regarded, should not perhaps be confined to what merely relates to the convenience of the trade and settlements; something is due to the consideration of it in a military view, in which besides their convenience, their protection and safety may be also materially affected, as well as that of the frontier in general. And in this respect I conceive it must be looked upon as a pass of very considerable importance, and by which we  
 20 may hereafter be open to invasion, unless it is guarded against with every necessary precaution. It is true the present state of the country does not seem to leave room for any very serious apprehensions of being immediately exposed to it; at least a force could not be suddenly collected to act against us by surprise; but in making arrangements for forming any durable system of security the future must be looked to. At present Great Britain possesses all the navigation of the lakes and their communications with the posts thereon, and there are few settlers on the shores but what are British subjects; but should a boundary be run along the middle of these waters, what would be thus separated from the British Territory, and which is at present scarce at all inhabited would soon be filled with people whose Government  
 30 and interests might have views inimical to us; and in the full establishment of their country they must in this quarter have the superior advantages on their side; as they will in general possess better harbours, a better soil and climate, and a more compact territory, uniting their old and new settlements together. These are some of the circumstances unfavourable to us which would attend the separation of territory by a boundary which should be run in the manner already described. By this boundary we should lose two of the posts we possess on the communication I have been speaking of, viz.:—Niagara and Fort Schlosser, but having already described the nature of those places, I shall now only add a few words by way of assisting to show what our own security would in this case necessarily demand; to this end  
 40 the command of the entrances of the river must be attended to, Niagara at present effects this towards Lake Ontario, but it may also be as well done on the opposite of



the river. Batteries must therefore be erected there, in the event of Niagara being transferred to other hands, with a participation of the navigation, &c., and for a place of arms or post of substantial defence, in which the general safety of the frontier will be more immediately concerned, I have already remarked above, Navy Hall seems preferable; a work therefore constructed here in a permanent way and on good principles, with the subordinate batteries towards the river, will be more respectable than anything which could be done at Niagara, even was that place to be constructed on a more comprehensive plan: still, however, in respect to the passage of the river, that post in the hands of an enemy would have the means of annoying us as much as our works could annoy them; and this is a circumstance which must happen almost throughout this as well as most of the other communications in this country, where the opposite shores shall be in the hands of different powers. As to the other entrance of this pass, the situation of Fort Erie is much preferable and more secure for vessels to come to than any place on the opposite shore. With a proper fort, therefore, here, and the post at Navy Hall, we shall, without mentioning inferior arrangements, have all the security, independent of naval force; which the nature of the communication will allow. I might add that the Chippeway Creek lying between those posts may also in time afford some resource of strength in the number of inhabitants who will, it is natural to suppose, be led there by the advantages of navigation in almost still water for forty miles into the country.

There is not any military post on Lake Erie; and there is not any harbour on the North Shore in its whole extent from Fort Erie to the straits leading to Detroit, there is no shelter therefore for vessels but the precarious one which they may sometimes find under the principal head lands, as Point Abiman, Long Point, and Pointe au Pic; or under some of the islands lying near the entrance of the straits; but these great projecting points of land are disadvantageous to coasting in boats (are objects of great consequence in this country) and render it so hazardous that it is seldom attempted, they generally go round by the south shore. The only harbours 30 are on that shore, of which the principal are at Presque Isle, Sandusky Lake, and Miami Bay; but if the boundary of the British possessions should be run as has been described "along the middle of Lake Erie," from the last mentioned communication "to the water communication between that lake and Lake Huron," we must, of course, lose those harbours with the whole of the southern and western shores of the lake. Should, however, a boundary more favourable to us be settled, and the lake left in our possession, I think the security of the frontier might be very materially increased by establishing posts at Presque Isle and on the Miami or Sandusky Rivers; but I am not aware that in the event of giving up that country, we could substitute any situations on our side of the lake that would counterbalance 40 any of the advantages of these; the greater attention must therefore be paid to the strength and security of those we may think requisite to form on the communica-



tions. Before I entirely quit Lake Erie I think a few more observations are due to Presque Isle, considering it as a situation deserving particular notice, not only on account of the harbour being an exceedingly good one, and the land about it remarkably fine, but because there is plenty of good oak timber in the neighbourhood ; and the place is admirably well adapted for ship building, and what may still render it of greater consequence is that from hence there are very practicable communications through a fertile and easy country, into the populous parts of the States of Pennsylvania and Virginia.

The communication between Lakes Erie and Huron is something more than 10 ninety miles long, including Lake St. Clair which is about twenty miles over. Detroit is the only military post here, and stands on the western shore, where the river is about half a mile wide, and is distant from the entrance of the straits from Lake Erie about eighteen miles. The ground at this place has not any striking features. The post stands, however, on an easy elevation and is not commanded : and has been perhaps originally chosen more for the protection of the settlement against the Indians, than in any view to its entire consequence as to the defence of the pass and the safety of the frontier on a more extended scale. But a post in this quarter being essentially necessary, and circumstances not having perhaps yet rendered it expedient to take new ground, this has, of course, continued to be attended 20 to, and it has by your Lordship's orders before I left Canada, been put into the best posture of defence that the situation and nature of it would admit of ; but whenever a permanent system for the defence and security of our frontiers, settlements, and trade, shall be under consideration, I think a much preferable position for continuing those objects may be looked to, I mean that which I have already noticed in a former Report (in 1788) and is on the east main shore, near the entrance of the straits from Lake Erie, and opposite the Isle aux Bois Blanc, where there is a good situation for naval business, and a safe and commodious harbour, which may be well protected ; and although, on account of the width of the river, boats could pass along the western shore unmolested from the works here, yet the ship channel would 30 at this place be effectually commanded, the ground here has a good elevation, and the place could not be annoyed from any part of the opposite shore, for, although the ship channel is narrow, the river is wide.

Should, therefore, a boundary line be ever run limiting the British to the eastern shore and middle of the water communication between the Lakes Erie and Huron, this place will be a resource of some security to our navigation ; but whether that boundary should ever be concluded on or not, still this situation is preferable as a place of arms to any other that I am acquainted with on this communication on either side of the water ; its vicinity also to Lake Erie will give us the readiest means of counteracting the designs of any enemy on that lake or its borders. As 40 there are several islands, and some of considerable magnitude on this communication,



both below and above Lake St. Clair, the same difficulty would arise here, with respect to them, in drawing a boundary line "along the middle of the water communication," as what I have already stated in speaking of other parts of the frontier. This communication is the passage for the trade with the north-west country and with the Mississippi by way of Lake Michigan except what may pass by the Grand or Ottawa River, but as there is a shoal, muddy bank where it falls into Lake St. Clair, vessels drawing more than seven or eight feet of water cannot navigate. From Lake St. Clair up to Lake Huron there is everywhere plenty of water; the current is very strong throughout, and the river is in general about three-quarters of a mile 10 wide, except at the entrance of Lake Huron, where it is not so much. The land on both sides is good and therefore very proper for settlements, those already formed are chiefly on the western shore.

The only military station in Lake Huron is on the Island of Michilimackinac, which is about nine miles in circumference, near the western extremity of the lake, and is the most advanced military post to the westward which we occupy in this country; it is distant from Montreal by way of the lakes, in gross numbers, about nine hundred miles, by the Grand River near seven hundred miles, and in a direct line of longitude about ten degrees; Montreal being nearly 73°40'0", and Michilimakinac in about 84°0'. Of the state of defence here, but little can be said; the 20 works injudiciously designed and begun in the last war were never half finished but had they been completed they would have been very far from answering the great expense incurred. The only object pursued here latterly, as to the works, has been to keep the place in such a temporary state of repair and defence as might make it looked to with some sort of respect by the Indians, and consequently give a proportional degree of safety and protection to the trade, which is certainly a matter of no small consequence, considering that this is the great place of rendezvous, both going and returning, of all who are employed in collecting the furs, whether from the Mississippi by Lake Michigan or from the north-west country, and that the supplies for carrying on that trade are generally completed here. The bay on which 30 the stores and merchants' houses are built is convenient for shipping, and is pretty well sheltered by an island lying opposite to it. There is no good harbour between the entrance of the lake from Detroit and Michiliminack, but vessels may be partially protected from particular winds at a place called Presque Isle, or under the Traverse Islands in Sagana Bay. The north and part of the eastern coasts of the lake are full of small islands and rocks, and the remainder of the eastern coast is an open beach for more than one hundred and fifty miles, on which in westerly winds, which are prevalent here, and which raise a prodigious swell in the lake, the surf beats with very great violence. The navigation, therefore, on either of these coasts is extremely dangerous in anything but birch canoes, which may be readily carried ashore on 40 the approach of bad weather. It is true there is water sufficient for vessels in the entrance of French River, and depth for any tonnage in Matchadosh Bay, and there



are also some small bays where there might be shelter, but all these would be difficult to come at in heavy gales of wind at the time they would be most wanted. Lake Michigan is not less than three hundred miles long, and in its widest part about seventy-five miles broad. A great number of rivers fall into it on all sides, but they are mostly small, very few of them having water sufficient for any vessels to enter. There is not any settlement on this lake, the French formerly had one near the bottom of it upon the River St. Joseph, but this has been so long abandoned that it is said there are now but few vestiges of it remaining.

From the bottom of the lake there is a short portage to a branch of the Illinois 10 River, and thence a direct passage to the Mississippi. The country on the borders of the lake, particularly to the southward, is said to be remarkably fine and level, a great part of it naturally clear, and that the soil is extremely rich. If the frontier boundary should be run "from the water communication between Lakes Erie and Huron along the middle of the last lake to the water communication between it and Lake Superior," we must, of course, lose the whole of Lake Huron, with all the south and west shores of the lake; the north and eastern shores only would remain in our possession. I have already observed on the little convenience these would afford to navigation in vessels, and I have as little to say in their favour in respect to their being propitious for settlements. A part only of the east shore is 20 good land, all the north and the remainder of the east shore from the Straits of St. Mary down to Matchadosh Bay is a barren, inhospitable coast for an extent of upwards of three hundred miles.

The communication between the Lakes Huron and Superior has at its entrance a great number of islands. Beyond these are what are called the Falls of St. Mary; these Falls, however, are nothing more than a strong and, in some parts, broken rapid of about half a mile wide and a mile long, navigable for canoes and even for small vessels, but not without risk, therefore, not often attempted by them. The canoes generally go up light, and come down with only a part of their cargo; there is a short portage on the south shore, and on this side the business of the communication is at present transacted; but the opposite shore might at some expense be made to answer the purpose equally well. The navigation might be impeded by an enemy on either side, in this respect; therefore, there seems no preference, but if a post of any consequence was to be taken anywhere in this quarter, it might be worth while to inquire into the particular merits of a point of land on the north shore at the extremity of this communication and entrance of Lake Superior, called Pointe au Pin, which I have heard greatly praised as possessing many desirable advantages, not only on account of its being at the head of the communication, but because it has a good harbour, and a commanding spot of ground, well calculated for defence, and might be easily fortified; but as I have no personal knowledge of 40 the country beyond the Falls of St. Mary, and as my information concerning Pointe



au Pin does not come from any military characters, I cannot rely entirely on its having all the good properties for a post which are ascribed to it; it is probable, however, that it has some striking features, or it would not have been so particularly noticed.

Lake Superior has some good bays and anchoring places under the islands along the east and north shores, which is the usual route of the canoes between the Falls of St. Mary and the Grand Portage, but it is mostly a rocky and barren coast, and may, on the whole, be considered as rather dangerous for vessels; the south shore is still more open and exposed, having very few places where a vessel could find shelter.

10 The best land is on this side of the lake, but it is said to be far from good even here.

From the north shore and within about eighty miles of the western extremity of the lake begins the Grand Portage, which is about nine miles long and leads westward to a chain of small lakes sometimes called Long Lake. The Grand Portage is the last place of rendezvous of the Fur Traders who assemble here from May to the end of August; they here take canoes of a smaller size than those brought from Montreal, and from hence separate into small parties and pursue their route over the immense continent between this and the Pacific Ocean, and after perhaps three or four years' absence meet here again on their return to Montreal with the furs they have been able to collect.

20 With respect to the frontier boundary in this quarter, it has been described to run from the communication with Lake Huron "through Lake Superior northward of the Isles Royale au Phillippeaux to the Long Lake; thence through the middle of the said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi," by this boundary we should lose the south shore of Lake Superior and Isle Royale which lies nearly opposite the Grand Portage, at about six or seven leagues distant from the Main. It is about sixty miles long and twenty broad, but the existence of such an Island as Isle Phillippeaux, or any other which can answer the idea of its situation, has not, I apprehend, been yet satisfactorily ascertained by any person who has been on this lake, and it is particularly objected to by Mr. Hugh Moore in his manuscript account of Lake Superior which I saw in your Lordship's possession at Quebec.

As to the continuation of the boundary from the Lake of the Woods, I think there is great reason to doubt that any line run on a due west course from thence would touch any branch of the River Mississippi, as it is most probable that that lake is situated altogether to the northward of all its sources.

I have now, my Lord, endeavored to give such a general descriptive outline of the nature of the country and its communications from Montreal to the extent of 40 what has been mentioned as the frontier boundary line westward, as may, I hope, in



some degree contribute to form an idea of its real situation and importance, so far as the subject seemed immediately connected with the principal objects of trade, as to the facility of carrying it on through the country, and the degree of protection it may receive joined to the consideration of the security and defence of the frontier in general ; and having already in pursuing this subject, annexed to the description of the different places such observations as occurred upon them, I have at present only to add a few such further remarks as naturally arise from a view of the whole collectively.

From what has been said respecting the frontier boundary there appears several 10 circumstances necessary to be adjusted throughout its extent, in order to its being properly defined under some accurate description, before it could possibly be admitted or established : Supposing it, however, to run (speaking in general terms) through the middle of the lakes and their water-communication, it must be obvious that the disadvantages of such a boundary to the interests of Great Britain must undoubtedly be very considerable ; first, in respect to trade by opening to the States of America (in a participation of the navigation of the lakes) a portion of the commerce with the north-west country, at present almost exclusively enjoyed by the British Merchants, who will, at the same time, be shut out of every possible avenue (except through the Gulf of Mexico) to the River Mississippi, and the Missouri which falls into it, and is 20 said to be a stream of greater extent than the Mississippi itself, having, it is said, been navigated twelve or thirteen miles without any appearance of being near its source.

The navigation of the Gulf of Mexico is dangerous, and ascending the Mississippi from thence is so tedious, being often upwards of three months in reaching to the mouths of the Missouri and Illinois Rivers, that this route, it may be supposed, can never be pursued by the British Merchants with any prospect of advantage.

The next material circumstance unfavorable to Great Britain from the boundary mentioned, and on which it is more immediately my duty to speak, is in respect to our frontiers being left open to invasion from a variety of points already described; a danger which may daily become more formidable in the natural progress of population ; the advantages at present on the lakes in numbers of settlements and inhabitants is altogether in our favor, but it seems probable that they must be finally against us, as the portion of the country bordering on the lakes which will belong to the States is in general more propitious than ours, and as towards lakes Huron and Superior, our possessions will be compressed into a country a small part only of which will be habitable. The trade, so far as concerns the transport of it through the lakes, may be conducted with nearly equal convenience to both powers ; its security to either may in some degree depend on naval protection, and should half the lakes be possessed by a foreign State, no doubt they would endeavour to be at least on a par with us in this respect ; exertions for a superiority of naval force by 40 either, might be carried to an excess beyond the value of the object ; and having



already observed that the passage of the communications may be impeded from either side of them, I conceive it must appear on the whole, that the carrying-trade in general can only be conducted under a compromise between the powers possessing it, however far such a compromise might be durable, should a preponderance of interest and power at any time lean towards our rivals, might perhaps be doubtful, but in any case it might be liable to be frequently deranged by the jealousies and intemperance of the lower classes of the people of both nations engaged in the same kind of business, meeting continually in a mixed intercourse upon the narrow communications. I have mentioned such posts as our security will seem to demand on our side  
 10 of the lakes ; the degree of strength and consequence to be given them must be determined by what may be the probable future circumstances of the country ; those which should be considered as the principal points of defence are opposite Isle au Bois Blanc, Navy Hall, and Kingston. Something may be necessary towards Lake Superior, but I cannot ascertain the best situation for it.

On a view of the general figure of the country as far as the River Mississippi, the most eligible as well as the most striking natural boundary between the British Territory in this part and the States of America would be the River Ohio. The next on the westward is the River Wabash. The last and the most contracted that could be taken so as to leave us full possession of the lakes, and a passage into the Mississippi, would be from that river along the river Illinois from its entrance until it arrived at a place on the said river whence a parallel of latitude run east should cut the meridian of the southermost part of Lake Erie at the distance of fifty British statute miles from the said southermost part measured south on the said meridian. From the said point on that meridian in a direct line northeastward, so as just to clear the main stream of the Alleghany River where it approaches nearest to Lake Erie ; and thence in a straight line towards the Oneida Lake southward of the said lake and Wood Creek ; thence in the nearest direction to cross the line of portage between Wood Creek and the Mohawk River ; and from thence after clearing every part of the said river in a district line terminating on the boundary proposed (in my  
 30 Report of 23rd last) between the States and Lower Canada, at a point on the said boundary equidistant from Lake Champlain and the River St. Lawrence. I have pointed out this trace of a boundary from the Mississippi eastward because it goes to the head of most of the streams which fall into the lakes from the southward, and because it also scarcely at all interferes with those which take a contrary direction and fall into the territories of the States, and therefore seems liable to fewer objections than any other I could conceive.

I am not possessed of any proper plan to accompany this report, I must therefore beg leave to refer to that which I have already had the honour to deliver to your Lordship of the whole Province of Quebec, and extending westward as far as the  
 40 Mississippi and Grand Portage. The country immediately to the southward of Lake



Erie may be seen in Hutchin's Map of the western part of Virginia, Pennsylvania, Maryland and North Carolina, &c., on which I have delineated part of the boundary line here proposed.

It has been my intention in this report not to omit any useful information, in order that a tolerable idea might be formed, in case of any separation of territory, of the value of what we may part with, as well as that which we may retain, but this I conceive may be still further illustrated by proper survey of the lake and communications on the frontier, and seems more particularly necessary with respect to such parts as we might be likely to give up, while the means of doing it are still in 10 our own hands; indeed a boundary through the water communications could not be properly described until such surveys had been taken. The shores of Lakes Ontario and Erie have been already surveyed under your Lordship's orders.

LONDON, 29th Oct., 1792.

(Signed) GOTHER MANN,

*Captain of Royal Engineers.*

To the Right Honourable Lord Dorchester, &c., &c., &c.

Endorsed—Captain Mann's Report on the Posts in Canada.

(*From Book Colonial Office Records, Canada, Promiscuous Papers, 1790–1800. Canada, Q. 57 Pt. 2, Pages 290–322.*)

20

## No. 18.

EXTRACT FROM DEPUTY-SURVEYOR JONES'S STATEMENT OF THE MILLS ERECTED IN THE DISTRICT OF NASSAU, DATED 7TH NOVEMBER, 1792.

NEWARK, 7th Nov., 1792.

STATEMENT OF THE MILLS IN THE DISTRICT OF NASSAU, SPECIFYING BY WHOM ERECTED, AND BY WHAT AUTHORITY, AND IN WHAT YEAR.

A saw and grist mill near the Falls of Niagara, on the west side of the River Saint Lawrence, in the Township of No. 2, on lot 174, by John Burch, Esq., in the year 1786, by permission of Major Campbell, then Commandant at Niagara. Mr. Burch 30 says that he was bound in the sum of two hundred pounds currency to build in the term of two years from that date but no other conditions named, only supposed to be held on the same terms the mills were in Lower Canada.

(Signed) A. JONES.

D. W. SMITH, S. G.

The authority for this appears 27 ante

**No. 19.**

ORDER IN COUNCIL RESCINDING THE RULE AS TO LOCATION OF MILLS, EXCEPT ON THE MILITARY COMMUNICATION BETWEEN LAKES ERIE AND ONTARIO, DATED 16TH APRIL, 1793.

AT THE COUNCIL CHAMBER, NAVY HALL,

WEDNESDAY, April 16th, 1793.

PRESENT :

His Excellency J. Graves Simcoe, Esq., Lieutenant-Governor, &c., &c., &c.  
The Honourable Wm. Osgoode, Chief Justice.

10 " Peter Russell.

His Excellency ordered several petitions that had been presented to be read to the board.

Read a petition signed ..... Richard Cartwright, junior, praying for permission to build a store upon the water lot opposite his town lot at Kingston, and likewise to include in the grant the beach marked "A" ..... up to the bank "B," specified, and accurately drawn in the plan, accompanying the petition, by Mr. Aitkin, Deputy-Surveyor;

ORDERED ..... that the prayer of this petition be granted.

Joshua Hatheway, of the State of Vermont, attended the board, and personally 20 petitioned for one or more townships for himself, and very numerous associates, consisting of upwards of one hundred families.

RESOLVED ..... that as it appears this petitioner is an agent or patentee for sundry persons belonging to the United States, and does not himself propose being an inhabitant of this Province, his petition cannot be granted.

Read a report from the magistrates and principal inhabitants of the Home district at the last April Quarter Sessions relative to the establishment of ferries upon the Niagara River under certain rules and regulations and restrictions ; this report is submitted in consequence of a letter from His Excellency the Lieutenant-Governor to the Magistrates, &c., requesting their opinion upon the subject.

30 ORDERED ..... that this report be referred to the Receiver-General.

Read a petition signed Robert Kerr, John Ferguson, Wm. Johnson and James Vanhorne, and other their associates, Loyalists, praying for a township of land to the southward of the river Trent, opposite an island in the said river, and in the rear of the Township of Murray or Cramahé ..... Robert Kerr, Esq., appeared in behalf of himself and associates.

ORDERED ..... that the prayer of this petition be granted.

His Excellency directed the eighth article of the rules and regulations framed by the Governor and Council of the late Province of Quebec, bearing date the



*dated  
16 April 1793*

*at page 27  
presented  
John Scott*

X

106

*Anent D.*  
twenty-fifth day of August, 1789, for the conduct of the land office department, to be read, whereby the several boards are restricted from granting such spots as contain conveniences for mills, which are to be reserved in the hands of the Crown; and upon a due consideration of the increase of population and wealth within the province, it appearing to His Excellency and the Council that the reasons assigned for laying such restraint no longer subsist, it would therefore not be conformable to His Majesty's gracious intentions of promoting the welfare and prosperity of his subjects in this province should these restrictions continue to be imposed:

RESOLVED.....that all proprietors of land having thereon conveniences for 10 the erection of mills are hereby permitted and authorized to make use of such advantages, provided they do not thereby prejudice the navigation, or obstruct the passage of fish in those waters where they usually resort. PROVIDED always that this permission does not extend to any part of the river, above or below the Falls of Niagara, forming the military communication between Lake Erie and Lake Ontario, which is reserved for the purposes of the Crown.

Read a petition signed Richard Duncan, John Munroe, Thomas Fraser, William Fraser, Peter Drummond, Justus Sherwood, Joel Hone, James Watson, Samuel Broom, Colin McGregor, Moses Robinson, Samuel Safford, Jonathan Arnold, Joseph Fay, David Fay, and very numerous associates, praying for certain tracts of the waste 20 lands of the Crown in sundry parts of this province, amounting to thirty townships.

Captain Thomas Fraser attended the board in behalf of himself and the above named petitioners and their several associates;

RESOLVED.....that the prayer of this petition is inadmissible.

ADJOURNED.

## No. 20.

LETTER FROM E. B. LITTLEHALES, SECRETARY OF LIEUTENANT GOVERNOR SIMCOE, TO LIEUTENANT PILKINGTON,  
DATED 23RD APRIL, 1793.

30 SIR.—His Excellency Col. Simcoe desires you will come to Queenston in the morning about ten o'clock, as he will remain here to-morrow, and wishes the boundary line of the Reserves of the Crown in the environs of this place to be finally settled to prevent further encroachment.

I am, &c., &c.,

(Signed) E. B. LITTLEHALES.

Lieut. PILKINGTON, R.E.

& this is a mistake should be  
17 February 1789 see  
ante 52<sup>o</sup>.

Does not this mean that it is the Military  
communication, along the water  
which is ~~not~~ reserved for the  
property of the Crown —  
that is where navigable Miles were  
not to be erected along the Banks

**No. 21.**

LETTER FROM E. B. LITTLEHALES TO ACTING SURVEYOR-GENERAL  
SMITH, DATED 23RD APRIL, 1793.

QUEENSTOWN, April 23rd, 1793.

SIR,—His Excellency the Lieutenant-Governor will be glad to see you here to-morrow morning with Mr. Jones, D.S. He wishes you to ascertain correctly what the reserves of the Crown are upon the banks of the water between Queenston and Fort Chippewa. He is given to understand they are about two chains from the summits of the bank.

- 10 You will be pleased to desire Mr. Jones to bring his observations upon his last surveying expedition.

I have the honour, &c.,

(Signed) E. B. LITTLEHALES.

WILLIAM SMITH, Esq.  
Acting Surveyor General

**No. 22.**

MINUTES OF COUNCIL UPON PETITION OF MESSRS. CANBY & McGILL,  
DATED 15TH JULY, 1794.

COUNCIL CHAMBER,

20

July 15th, 1794.

PRESENT:

His Excellency John Graves Simcoe, Esq., &c., &c.  
The Honourable Peter Russell,  
" Aeneas Shaw.

\* \* \* \* \*

*See page 104* BENJAMIN CANBY & JOHN McGILL:—Petitioners have been at a great expence in erecting mills on the military communication between Chippaway and the Falls, about one mile above the mills of John Burch, Esq., pray for a location of land of half a quarter of a mile below the place designed for said mills, and a quarter and 30 half quarter of a mile of said military tract above the place first mentioned. Your Petitioners further pray to locate twelve hundred acres of timber land on the Chip-paway Creek.

ORDERED:—To specify the vacant lots which, the Surveyor-General will report upon: the other part to be granted if there is a vacancy.



## No. 23.

LEASE FROM J. G. SIMCOE, ESQUIRE, AS COMMANDER OF HIS  
MAJESTY'S FORCES IN UPPER CANADA, TO MESSRS. MCGILL  
& CANBY, DATED 10TH NOVEMBER, 1794.

[SEAL]

J. GRAVES SIMCOE.

10th Nov., 1794.

TO ALL TO WHOM THESE PRESENTS MAY COME, Greeting: KNOW YE that I, John Graves Simcoe, Esquire, in and by virtue of the powers and authority 10 to me granted as Colonel Commanding His Majesty's Forces in this Province, for and in consideration of the rents, covenants and agreements hereinafter reserved and contained, and which, by and on the part and behalf of John McGill, Esquire, now adjutant in His Majesty's Regiment of Queen's Rangers, and Benjamin Canby, of the Township of Stamford, Yeoman, and to be paid, done and performed, HAVE granted, leased and set, and by these presents DO grant, lease and set unto them, the said John McGill and Benjamin Canby, or their or either of their executors, administrators or assigns, all that piece or parcel of ground situate, lying and being amongst the lands reserved for military purposes and part of the same, about one mile nearer Fort Welland than the mill known by the name of Burch's Mill, in the Township 20 aforesaid; whereon the said John McGill and Benjamin Canby have a saw-mill and other buildings erected, being in length one half quarter of a mile below the land whereon the said saw-mill is erected, and one quarter and a half of a mile above the said mill and other buildings now erected and being, and in breadth from the water wherein the said mill stands up the bank and three feet beyond the dwelling house of the said Benjamin Canby, together with all ways, waters, water courses and passages thereon, the said leased premises being, to have and to hold the said piece or parcel of land as aforesaid to them the said John McGill and Benjamin Canby, their or either of their executors, administrators and assigns, for and during and until the full end and term of twenty-one years from thence next ensuing and fully to be 30 complete and ended, yielding and paying therefor yearly and every year during the said term unto His Majesty's Receiver-General for the time being, the rent or sum of Five Shillings current money of this Province on the first day of June; the first payment to commence in the year of Our Lord, one thousand seven hundred and ninety-five.

PROVIDED ALWAYS, that if at any time it shall happen to be necessary during the term aforesaid to resume the said land, or any part or parcel thereof, to the use of His Majesty, his heirs and successors, to or for any military use or purpose, or to or for any other use or purpose required by the exigencies of the Government of this Province that then and in such case the whole, or any part or parcel as 40 aforesaid, shall be, and the said John McGill and Benjamin Canby for themselves,

This Land is included in the Grant  
to Thomas Clark - 2 January 1816.  
exhibit No 51. page 157.

Colonel John Graves Simcoe Lt Gov of Upper Canada  
8 July 1792 to 20 July 1796.

to go to the Receiver General

their executors, administrators and assigns, do agree that the same shall be given up, anything in these presents contained to the contrary notwithstanding.

*10 Nov  
1794*

Given under my hand and seal at-arms this tenth day of November, in the year of Our Lord, one thousand seven hundred and ninety-four, and the thirty-fifth year of His Majesty's reign, at Navy Hall, in the Province of Upper Canada.

(Signed)

J. G. S.

By His Excellency's Command.

Endorsed.

Lease of Military Lands for Twenty-one years to Messrs. McGill and Canby.  
10 Dated 10th November, 1794.

**No. 23A.**

MEMO. FROM RECORDS OF EXECUTIVE COUNCIL REGARDING CANBY AND MCGILL, DATED 14TH FEBRUARY, 1795.

Grantee's Name.	Description.	Order of Council.	When Granted.
20 Benjamin Canby and John McGill.	Been at great expense in erecting Mills on the military communication between Chippewa and the Falls above the Mills of John Burch, Esq. Pray for a half a quarter of a mile below the place upon. The other designed for said mill and a quarter part to be granted and a half a quarter of a mile of said tract above the place first mentioned; and further pray to locate 1,200 acres of timber land on the Chippewa Creek.	To specify the Surveyor General will report if there be a military tract above the place first mentioned; and further pray to locate 1,200 acres of timber land on the Chippewa Creek.	July 15th, 1794.

EXECUTIVE COUNCIL OFFICE,  
30 NEWARK, February 14th, 1795.

(Signed) JOHN SMALL,  
*C. Exe. C.*

See Ex No 52 page 160

**No. 24.**

PROCEEDINGS OF COUNCIL OF UPPER CANADA RESPECTING YONG  
STREET, (RUNNING NORTHERLY FROM THE TOWN OF YORK,  
OTHERWISE TORONTO, DATED 6TH APRIL, 1796.

COUNCIL HELD AT THE GARRISON AT YORK,

April 6th, 1796.

PRESENT:

His Excellency the Lieutenant-Governor.

The Honourable Peter Russell.

10

" Aeneas Shaw.

His Excellency the Lieutenant-Governor requests the attention of the Honourable the Executive Council to carrying into execution such measures as may seem proper to be taken to promote the speedy establishment and welfare of the town of York, its vicinity and dependencies. It seems necessary that the promise that the Lieutenant-Governor having represented the importance of the harbour of York, or Toronto, to Mr. Secretary Dundas, that gentleman was pleased to agree with him in opinion.

The Lieutenant-Governor having also communicated to Mr. Secretary Dundas the general plan of the township to be granted in future together with the exceptions proposed to be made at York, received Mr. Dundas's observations thereon.

This statement will clearly appear to the Hon. the Council by the following extracts from the Lieutenant-Governor's letter to Mr. Dundas, and his reply thereto.

Extracts of a despatch from Lieutenant-Governor Simcoë to the Right Honourable Henry Dundas one of His Majesty's Principal Secretaries of State, &c., &c., &c., dated York the 16th September, 1793.

" I do myself the honour of transmitting to you, the general plan for the arrangement of future townships in this Province, which the Executive Council has directed to be carried into execution, as it seems to them to be properly calculated to enforce the provisions for the recovery of the church and Crown, agreeable to the late Act 30 of Parliament."

" An exception it was thought proper to make on the military communications, as it is intended that they shall be carried on in as straight a line as possible, it was determined that such a line should divide the several townships, and for the speedy settlement of the country and the future maintenance of the road, that no person shall be allowed a lot thereon who was not *bond fide* a settler and that the reserves which would have fallen in this line, agreeably to the general plan should be distributed among the rear concessions. The great importance that it appears to the Council to promote the erections of towns, has also occasioned them to deviate from



the general plan, to assist the settlement at Toronto or York. It was thought expedient to reserve the whole of the broken front for garrison purposes, as well as to prevent the scattering of the inhabitants in such situations as their fancy or interests might induce them, which would ever prevent that compactness in a town which it seems proper to establish. Two or three of the front concessions therefore are granted in this township, and the reserves will be made in the back lands, which in reality are far more valuable for agricultural purposes. But reserves to a great extent are made near this harbour of timber, which must in time become valuable as it is proposed to furnish from hence all the materials that may be wanted for the service  
10 of the Crown, in the fortresses on the lakes, and which at present are purchased from the merchants, at a very exorbitant price."

Extract of a despatch from Lieutenant-Governor Simcoe to Mr. Secretary Dundas, dated York, 20th September, 1793 :—

" I also enclose for your inspection an actual survey of the harbour of York, late Toronto, the proper naval and military arsenal of Lake Ontario, and in a great measure of Upper Canada.

" I propose therefore that the winter station of the fleet and the refitting port and such naval buildings as may be wanted be at York. This port is at a great distance from the foreign shore, is capable of being easily defended, and the grants of land  
20 having been made by the present Government, sufficient care has been taken that great reservation of timbers should be made for naval purposes."

Extract of a despatch from Mr. Secretary Dundas to Lieutenant-Governor Simcoe, dated Whitehall, 16th of March, 1794 :—

" The plan for future townships transmitted in your letter of the same number and date with that which I have been answering, seems, in placing the reserves for the Crown and the church, to have properly attended to the spirit and principle of the late Canada Act.

" Although there may be a good reason for making those reserves in the back lands in the particular Township of York, yet in that township also there should be  
30 a reservation in the front concessions for the glebe and residence of the clergyman who shall be appointed the rector under the provisions of the Act.

" The next question is where to establish the chief naval station of the Province, and herein I am of opinion with you that York is the most proper place for it.

" I also agree with you that the place upon the River Thames, which you have marked as the site for London, is well situated and judiciously chosen for the future Capital, but as the defence of the colony is the first object, if that defence should be Maritime it follows that the settlement of York is the most important for the present, not as the future Capital, but as the chief place of strength and security for the naval force of the Province.



"The communication which by your vigour and assiduity you have been enabled to trace between York and Lake Huron is of great importance, and must prove beneficial to the Province in the several points of view in which you have considered it.

"In order to facilitate this communication you will, of course, give every encouragement for settling those parts of the route which are most convenient as stages for the traders and as depots for all articles of merchandise in their passage from York to Lake Huron."

## No. 25.

FURTHER PROCEEDINGS OF COUNCIL OF UPPER CANADA RESPECTING YONGE STREET, DATED 7TH MARCH, 1799.

COUNCIL CHAMBER AT YORK, 7th March, 1799.

PRESENT:

His Honour Peter Russell, Esq., President.

The Honourable Aeneas Shaw,

" John McGill,

" David William Smith. \* \* \*

SURVEYOR-GENERAL'S OFFICE, 7th March, 1799.

May it Please your Honour,

In furtherance of the object intended, by adding two branches to the Military  
way called Yonge Street, I beg leave to submit to your Honour, my idea, that it  
would be improved by adding a short spur to the Eastern Branch, which would very  
conveniently lead into the centre of the old Town, and be well connected with Lot  
Street, by gullies which favor the crossing of the Town Creek. To effect this I have  
been obliged to obtain Mr. White's permission to take the road out of two of his Town  
Lots, and give him an equivalent from the space which will become unnecessary,  
he leaving a small lane for the convenience of the proprietor of the 100' acre Lot No.  
5, as will more fully appear by the sketch annexed.

This may also be a proper time to represent to your Honour that Ontario Street  
will be much improved between King Street and Duke Street by running a chain  
more to the westward, and convenience will be given to the inhabitants of those  
streets generally, as the turn from Ontario Street into Duke Street, is narrow and  
on a declivity, as may be seen by the plan which accompanies this.

Mr. Setzman having nearly finished the work upon which he was employed,  
upon Dundas Street, and Yonge Street, and your Honor having been pleased to sig-



nify your ideas on the benefit which the Country would reap, by avoiding the Poplar Plain hill, I beg to be informed if it should be your Honour's pleasure, to have that part of the Township explored, and, if found practicable to avoid that hill, whether your Honour would choose a road should be opened, accordingly, with the parties now at work. All which, &c.,

(Signed) D. W. SMITH, A.S.G.

In Council,

Approved and ordered to be carried into execution.

Adjourned.

10

## No. 26.

### REPORT OF SURVEYOR-GENERAL SMITH UPON PETITION OF MR. S. STREET, RESPECTING CLAIM AT QUEENSTON ; AND PAPERS AND MAPS ATTACHED THERETO.

S. G. O., 16th March, 1796.

SIR,—I enclose to your Honour my report on the Petition of Samuel Street, Esquire, with the Copies of several papers alluded to therein.

I am, respectfully,

Your Honour's most obedient servant,

D. W. SMITH.

20 His Honour The Administrator.

To His Honour Peter Russell, Esquire, administering the Government of the Province of Upper Canada, in Council.

MAY IT PLEASE YOUR HONOUR,—In obedience to your Honour's reference to me, on the 8th of October last, to report on the petition of Samuel Street, Esquire, who prays for lots No. 2 and 3 with their broken fronts, on the river Niagara, in the Township of Newark, which he states to have been in possession of for some years; I had reference to the plan sent me from Quebec of that Township, and by it I perceive, that Mr. Street's name appears on the lots No. 3 and 4, and not upon 2 and 3, which may either be a mistake of that gentleman's or of the office at Quebec, or  
30 perhaps in consequence of an exchange.

The broken fronts of Nos. 1, 2, 3 and 4 came vacant on the plan from Major Holland's Office, the broken front No. 5 was entered as comprehending the new Landing, and when I received the plan of Newark, which was in possession of the late Land Board for the county of Lincoln, the name of Elijah Phelps was entered thereon on the broken front of No. 2. When Mr. Street lodged the Minute at my



Office directing my report, he left four other papers in support of his claim, copies of which are hereunto annexed :—

The first appears to be an instrument by Lieutenant-Colonel Depeyster, Commanding the Upper Posts, under the authority of General Haldimand, the then Governor and Commander-in-Chief of Canada, dated at Niagara, the 10th August, 1784,\* transferring two parcels of land (formerly granted to Mr. Isaac Dolsen by Brigadier-General Powell) to Messrs. Street and McLaughlin, the one parcel, said, among other things, to be bounded on the south by Niagara River, and on the west by Mount Pleasant, the other parcel said to be situated on the top, and close to the 10 brow of the said Mount Pleasant and Niagara River. This permission to Messrs. Street and McLaughlin, being on condition of their holding the said lands, upon the tenor of His Majesty's additional Instructions to the Commander-in-Chief at Quebec, dated the 16th July and the 7th August, 1783,\* to which it seems that Messrs. Street and McLaughlin agreed.

The second paper dated the 16th of August, 1784, appears to be a quit claim of the aforementioned lands from Isaac Dolsen to Messrs. Street and McLaughlin.

The third paper is a copy of a memorial from Mr. Street to Lord Dorchester, the 15th April, 1790, apprehending that from the remarks made by the Engineer (Lieut. Humphrey), Government might be induced to take part of this land from him, after 20 a very considerable expense ; praying therein for relief, and offering at the same time certain reserves within the premises, such as land for store houses, the lime, stone, &c.

No. 4 is said to be the copy of a letter from Mr. Street to Sir John Johnson, Bart., the 20th April, 1791, containing a long narrative respecting the land in question.

I enclose to your Honour a copy of so much of the plan of No. 1, or Newark, received from Quebec, as regards Mr. Street, and having heard your Honour say, you were left in possession of very few documents, I transmit also the Copies of His Majesty's Additional Instructions\* alluded to, and copy of a plan in the possession of 30 Lieut. Pilkington, shewing the ground to be reserved for Government at the Landing Place, as proposed by Capt. Mann, the Chief Engineer—which plan I heard of, and came by, by chance. It is not exactly ascertained to this Office how this Reserve will fall on the lots claimed by Mr. Street, but I do suppose nearly in the manner comprehended within the red lines, in the space washed with lake on the small plan, accompanying this, by which nearly all the broken front No. 3 and same part of the broken front No. 4 appears unsought for, by the Engineer.

---

\*Note by Appellants' Solicitors—The documents of 16th July, 1783, and 7th August, 1783, being copies of the instructions to Governor Haldimand, and that of the 10th August, 1784, being license from Lieutenant-Colonel Depeyster, are already printed in this book as exhibits Nos. 4, 5 and 6, respectively.



Mr. Street at the end of this Petition, states that he understands, by the Minutes of the late Land Board, that the old lines of the front concession of the Township of Newark are to stand good, which upon reference to their Minutes, appears to be the case, as per extract enclosed: but on the face of the plan it seems as if it were only intended for part of the first concession, in which case, Mr. Street says, he should materially suffer, by Mr. Chisholm's line running obliquely into his lands.

All which is submitted to your Honour's wisdom.

D. W. SMITH,

*Acting Surveyor-General, Upper Canada.*

10 SURV. GEN. OFFICE, NEWARK, 10th Nov., 1796.

(*Enclosure with No. 26.*)

Proceedings of Land Board held at Navy Hall, 23rd August, 1790.

PRESENT :

Sir John Johnson, Bart., President.

Lt. Col. Harris, Commanding Upper Posts.

Lt. Col. Butler.

Peter Tenbrook, } Esquires.  
Robt. Hamilton, }

The first business brought before them respected the disputed line in the front 20 of concession, from Showers to the upper part of Township No. 1, when the Board, taking into consideration that by the first lines these lots were settled, that any alteration now made in them must derange the whole settlers, and that this matter was also formerly determined by a board of Magistrates before any Land Board was formed :

They determined that the original lines as made by Allan McDonell in the front lots, shall be held good, and that the occupiers shall keep what lands they possessed in consequence of the original survey.

A Copy,

D W. SMITH, A. S. G.

30

(*Enclosure with No. 26.*)

DAVID WILLIAM SMITH, Esquire.

SIR,—In addition to the papers respecting my claim to the lands at the Landing, viz. : Lots Nos. 3 & 4 with the broken fronts attached thereto (in place of Nos. 2 and 3, mentioned by mistake in my petition to the Honourable Council), I now enclose for your further information a copy of Philip Fry's tickets, who was the first Surveyor appointed for this District by Major Holland. I beg leave to observe that these tickets and Colonel DePeyster's Warrant of Transfer, having adhered to the unity of the Empire by joining the King's Standard, and actually serving His Majesty in the early part of the war, and steadfastly continuing my attachment to the Government



ever since, having acted conformable to His Majesty's Additional Instructions to the Commander-in-Chief of the Province of Quebec, dated at St. James the 16th of July and the 7th August, 1783 (as referred to in Colonel De Peyster's Warrant of Transfer), as well as to all other instructions for the government of settlers on Crown Lands, and having, at an early period, signed the declaration therein directed; also improving and cultivating the lands allotted me by Government, I conceive my claim to Lots Nos. 3 and 4, together with the broken fronts attached to the same, will not be doubted, if any such right can exist before the title deeds are out. Particularly as the report made by Lieutenant Humphrey, of the Engineers, took place some 10 years after I was in actual quiet and peaceable possession of the land, and all those documents. Having a full confidence in the faith of Government, pledged by Colonel DePeyster, I not only paid a large sum of money for the land, but erected buildings thereon at a considerable expense, all of which fall within the limits reclaimed, in consequence of Mr. Humphrey's report; but as he found the necessity of the reserve for Government on that being the only place for erecting stores, wharfs, &c., and for procuring stone for lime, I still wish to be understood not to have the smallest inclination to embarrass the Government by adhering to my right, and will, upon condition of obtaining the title deed for remainder, agreeably to a resolve of the Land Board respecting the old and new line, cheerfully relinquish my claim, however just, 20 to the lands laying east of Lieut. Humphrey's line extending up the hill to the first angle of his survey, asking only a lease, in the same manner it has been promised to others, for such half acre lots as were built upon, and occupied by and under me at the time I was dispossessed, such as are on the banks extending to the river with wharfing thereon. The lands thus relinquished, include the bottom where the stores, barracks, &c., are erected by Government, and all the quarries that have been occupied on the face of the hill. The remainder of the face of the hill, claimed by Mr. Humphrey's report, can be of no service to Government, there remaining no valuable timber thereon, and the lime stone is so far inferior to that on the adjacent land, that it is not made use of for that purpose.

30 Having thus stated my claim previous to the reserve or reclaim by Government, and my readiness to accommodate, I presume to hope that all obstructions to my title deeds coming out, will be removed, as I am convinced that his Honour is disposed to do strict justice to every individual settler, when no reasonable objection appears.

I am, Sir, with great respect,

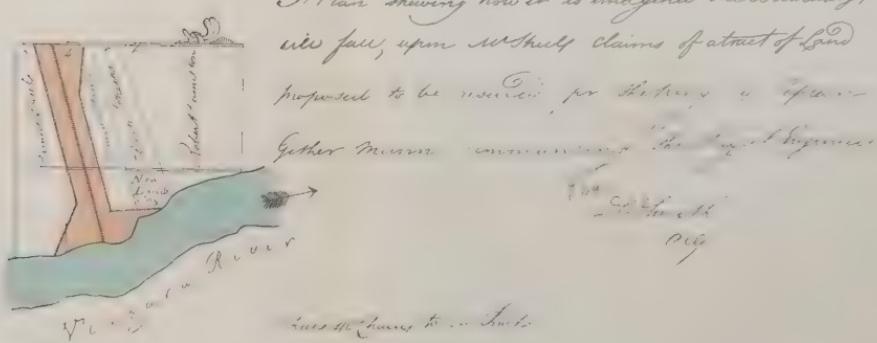
Your most obedient, very humble servant,

(Signed)

SAMUEL STREET.

Queenston, 10th November, 1796.

(Enclosure with exhibit N° 26)



I certify that this plan is a  
true copy of the original of record  
in this Office.

*John J. McFee*  
Clerk of the Privy Council Canada  
21<sup>st</sup> June 1892.

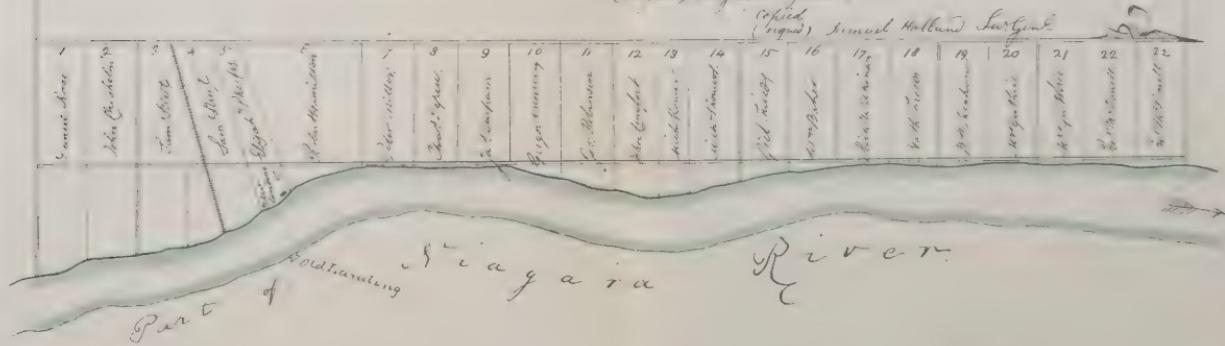


plan of part of an improvement survey of Township No 1.

The Regular Survey of the township differs a good deal in front from No 1 down to 13 these lots were sold prior to any survey. A memorial from all the owners concern to the Land Board states that their improvements would be much lost should their original lines be changed. It has been consented to grant their lots conformably to their proportions

(Signed) Augustus Jones P.M.

(Signed) Samuel Holland Surveyor



I certify that this Plan is a true copy  
of the original of Record in this Office

*John J. McFee*  
Clerk of the City Council, Canada  
21<sup>st</sup> June 1892.

A copy  
was delivered  
to  
W.Y.





(*Enclosure in preceding Letter of Samuel Street.*)

TOWNSHIP NO. I.

Lots Nos. 3 and 4 surveyed for Mr. Sam'l. Street.

(Sd.) PHIL. K. FRY.

NIAGARA, 25th August, 1787.

(*Enclosure with No. 26.*)

To His Honour Peter Russell, Esquire, administering the Government of the Province of Upper Canada, in Council.

The Memorial of Samuel Street humbly sheweth:—

10 That your memorialist having been many years in possession of lots Nos. 2 & 3 & 4, with the broken fronts attached thereto, in the Township of Newark; and being entered for the same in the Surveyor-General's Office, at Quebec, prays that your Honour will be pleased to direct the Surveyor-General, to give such description of the same as will enable the Attorney-General to make out the title deeds.

If a residence of nineteen years at this place, and an early and exerted attention to the advancement of this settlement in its infant state, merits a further consideration in lands, your memorialist prays your Honour will be pleased to take it into consideration.

And your memorialist, as in duty bound, will ever pray.

(Signed) SAMUEL STREET.

20

NEWARK, 1st October, 1796.

The petitioner understands that the Minutes of the Land Board, direct the old lines shall stand good in the front concession of this Township.

(Signed) S. S.

Endorsed, Sam'l Street.

Received 1st October, 1796.

Read 8th October, 1796.

Referred to the Surveyor-General to report on the lots Nos. 2 & 3

Ordered that the petitioner receive 1,200 acres, including former grants.

Granted warrant 15th October, 1796.

A copy,

(Signed) D. W. SMITH.

30



**No. 27.**

LETTER FROM SURVEYOR-GENERAL D. W. SMITH TO LIEUTENANT PILKINGTON, COMMANDING R. E., DATED 22ND APRIL, 1796.

NIAGARA, 22nd April, 1796.

To LIEUTENANT PILKINGTON,  
Commander Royal Engineer,  
Niagara.

DEAR PILKINGTON.—Mr. Russell tells me you will be kind enough to show me the extent of your 1,200 yards reserve; Mr. Jones has had Colonel Mann's paper to 10 guide him in the distance, but I should rather wish for your intervention before I comply with the order in favour of Mr. Russell.

Be so good as to let me know if the Commander-in-Chief, the Board of Ordnance or others, have made any military reservation on the banks between the Landing and the Chippewa, as Messrs. Canby & McGill have an order for land in that situation.

Yours truly,  
D. W. SMITH.

**No. 28.**

LETTER FROM LIEUTENANT PILKINGTON TO SURVEYOR-GENERAL  
20 D. W. SMITH, DATED 2ND MAY, 1796.

(*COPY of an original letter in the possession of the Toronto Public Library, being part of the collection of papers of the late Sir D. W. Smith, late Surveyor-General of the Province of Upper Canada.*)

NIAGARA, 2nd May, 1796.

DEAR SIR.—I will do myself the pleasure of attending whenever it may be convenient to you, to ascertain the boundary of the reserve which may affect Mr. Russell.

I have never possessed any direction relative to a reservation on the banks of the River between the Landing and the Chippawa.

30 I recollect the Land Board being furnished with a suggestion of Colonel Mann's for that purpose, with a view of preserving a picturesque feature of the country, but I do not conceive with an idea of precluding the occupation of any position wherein a work of utility might be established.

I am, Dear Sir, Yours very faithfully,  
ROB'T. PILKINGTON.

D. W. SMITH, Esqr., Surveyor-General.

NOTE.—The letter is endorsed "No Chain on Niagara River."

Impatience Lieutenant Pilkington

Robinson suggested that Pilkington did not by the term work of utility exclude a military work, but rather included that.

But this is inapplicable because Pilkington was asked as to only a military application which was for a mill — "utility therefore in mind, was such a military utility

**No. 29.**

LETTER FROM E. B. LITTLEHALES, SECRETARY TO LIEUTENANT-GOVERNOR SIMCOE, TO SURVEYOR-GENERAL D. W. SMITH, DATED 16TH JULY, 1796.

YORK, 16th July, 1796.

To Surveyor-General D. W. SMITH,

SIR,—His Excellency has no objection to Mr. Street's obtaining the situation of the bank of the Niagara River in the Township of Willoughby, opposite to Navy Island, being the front of the broken lots Nos. 19 and 20 above the Chippewa Creek, 10 on the usual condition of reserving to the Crown the use thereof, whenever the public service requires ; and you will make out his assignment accordingly.

I am, Sir,

Your most obedient humble servant,

E. B. LITTLEHALES.

**No. 30.**

LETTER FROM E. B. LITTLEHALES, SECRETARY TO LIEUTENANT-GOVERNOR SIMCOE, TO MR. S. STREET, DATED 16TH JULY, 1796.

YORK, July 16th, 1796.

SIR,—His Excellency Lieutenant-Governor Simcoe directs me to acknowledge 20 the receipt of your letter, and to advise you that His Excellency has never heard, and by no means has been disposed to admit any unfavourable impression of your conduct, whatsoever, as a loyal subject, but far to the contrary.

Immediately upon the receipt of your communication, I was directed by His Excellency to signify his order to the Acting Surveyor-General to assign unto you, the reservation of the Crown Land for which you petition; being one chain in breadth along the bank of the Niagara River above the Chippewa Creek, in the front of the broken lots Nos. 19 and 20, for the purposes specified in your letter, of erecting stores and warehouses thereupon—saving to the King the use thereof, as in all other Military Reserves, whensover His service shall require it.

30

I am, with much regard, Sir,

Your most obedient humble servant,

E. B. LITTLEHALES.

SAMUEL STREET, Esquire.



## No. 31.

CROWN GRANT TO JAMES FORSYTH, OF LOTS NUMBERS 143, 144, 146,  
AND NORTH HALF 145 IN THE TOWNSHIP OF STAMFORD, DATED  
31ST DECEMBER, 1798.

## UPPER CANADA.

PETER RUSSELL, PRESIDENT.

George the Third, by the Grace of God, of Great Britain, France and Ireland,  
King, Defender of the Faith, and so forth;

*To all to whom these presents shall come, GREETING:—*

10 KNOW YE, That we, of Our Special Grace, certain knowledge and mere motion,  
have given and granted, and by these presents do give and grant unto James Forsyth and his heirs and assigns for ever, a certain parcel or tract of land situate in  
the Township of Stamford, containing by admeasurement three hundred and eight  
acres with allowance for roads, be the same more or less, being composed of lots numbers  
143, 144 & 146 and the north half of lot number 145, and situate, lying and being,  
in the Township of Stamford aforesaid, in the County of Lincoln and Home District  
of our Province aforesaid, together with all the woods and waters thereon lying and  
being under the reservations, limitations and conditions hereinafter expressed; which  
said three hundred and eight acres of land are butted and bounded, or may be  
20 otherwise known as follows, that is to say:—Beginning at a post one chain from the  
top of the bank of Niagara River, in the limit between number 129 and 144, then  
west to within one chain of lot number 142, ninety-nine chains more or less, then  
south forty chains, then east fifty chains, then north ten chains, then east to within  
one chain of the top of the bank of Niagara river, then northerly along the top of  
the bank, at the distance always of one chain from the edge thereof, with the stream,  
to the place of beginning.

AND WHEREAS, by an Act of the Parliament of Great Britain passed in the  
thirty-first year of His Majesty's Reign, intituled, "An Act to repeal certain parts of  
an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for  
30 making more effectual provision for the Government of the Province of Quebec, in  
North America,' and to make further provision for the Government of the said Pro-  
vince," it is "declared that no grant of lands hereafter made shall be valid or  
effectual, unless the same shall contain a specification of the lands to be allotted and  
appropriated solely to the maintenance of a Protestant Clergy within the said Pro-  
vince," in respect of the lands to be thereby granted.

NOW KNOW YE, that we have caused an allotment or appropriation of forty-  
four acres, to be made in a certain parallelogram in the rear of the Township of  
Flamboro' and Beverly, beginning at the southerly angle of the land appropriated  
for the clergy for the Township of Newark, then south  $45^{\circ}$  west one hundred and



sixty chains then north  $45^{\circ}$  west two hundred and ten chains, then north  $45^{\circ}$  east one hundred and sixty chains, then south  $45^{\circ}$  east two hundred and ten chains to the place of beginning, being in the proportion of one to seven of the lands so hereby granted, as and for a Reserve, and to and for the sole use, benefit and support of a Protestant Clergy, being as nearly adjacent thereto as circumstances will admit, and being, as nearly as circumstances and the nature of the case will admit of the like quality as the land in respect of which the same is allotted and appropriated, and as nearly as the same can be estimated equal in value to the seventh part of the lands so hereby granted as aforesaid.

TO HAVE AND TO HOLD THE SAID PARCEL OR TRACT OF LAND, TO HIM THE SAID JAMES FORSYTH AND HIS HEIRS AND ASSIGNS FOR EVER; SAVING, NEVERTHELESS, to us, our heirs and successors, all Mines of Gold, Silver, Copper, Tin, Lead, Iron and Coal that shall or may now or hereafter be found on any part of the said parcel or tract of land hereby given and granted as aforesaid; and saving and reserving to us, our heirs and successors, all White Pine Trees that shall or may now or hereafter grow, or be growing, on any part of the said parcel or tract of land hereby granted as aforesaid; PROVIDED ALWAYS, that no part of the said parcel or tract of land, hereby granted to the said James Forsyth and his heirs, be within any of the reservations before this Grant made and marked for us, our heirs and successors, by Our Surveyor-General of Woods, or his lawful deputy, in which case this Our Grant for such part of the land, hereby given and granted to the said James Forsyth and his heirs, as aforesaid, and which, upon a survey thereof being made, be found within any such reservations, shall be null and void, and of none effect, anything herein contained to the contrary notwithstanding; PROVIDED ALSO, that the said James Forsyth, his heirs or assigns, shall or do within three years, erect and build, or cause to be erected and built, in and upon some part of the said parcel or tract of land, a good and sufficient dwelling house, he the said James Forsyth, or his assigns, not having built or not being in his or their own right lawfully possessed of a house in Our said Province, and be therein, or cause some person to be therein resident, for 30 and during the space of one year thence next ensuing the building of the same.

PROVIDED ALSO, that if at any time or times hereafter, the land so hereby given and granted to the said James Forsyth and his heirs shall come into the possession and tenure of any person, or persons, whomsoever, either by virtue of any deed of sale, conveyance, enfeoffment or exchange, or by gift, inheritance, descent, devise or marriage, such person, or persons, shall within twelve months next after his, her or their entry into and possession of the same, take the oaths prescribed by law, before some one of the Magistrates of Our said Province, and a certificate of such oaths having been so taken, shall cause to be recorded in the Secretary's office of the said Province; in default of all, or any, of which said conditions, limitations and restrictions, this said grant and everything herein contained shall be, and WE do hereby declare the same to be null and void, to all intents and purposes what-



soever; and the land hereby granted, and every part and parcel thereof, shall revert to and become vested in us, our heirs and successors, in like manner as if the same had never been granted; anything herein contained to the contrary in any wise notwithstanding.

GIVEN under the Great Seal of Our Province of Upper Canada: WITNESS, The Honourable Peter Russell, President, Administering the Government of Our said Province, this thirty-first day of December, in the year of Our Lord one thousand seven hundred and ninety-eight, and Thirty-Ninth of Our Reign.

By Command of His Honour in Council.

P.R.

10

W.M. JARVIS, *Secretary.*

Entered in the Auditor's Office, this 31st day of December, 1798.

PETER RUSSELL, *Auditor-General.*

The within granted lot, number one hundred and forty-three, was purchased of Thomas Millard by James Forsyth, and transferred with the consent of the Land Board of the District in compliance with their instructions.

Dec. 27th, 1790.

J. WHITE, *A.G.*

Registered 20th March, 1799.

W.M. JARVIS, *Registrar.*

## No. 32.

20 MEMORANDUM RESPECTING GRANTS OF LAND (NOT PRINTED IN FULL IN THIS BOOK) ISSUED ALONG THE NIAGARA RIVER, BEGINNING AT FORT ERIE AND PROCEEDING WITH THE STREAM TO THE TOWN OF NIAGARA, SHOWING DESCRIPTIONS, WHICH IS PUT IN BY CONSENT OF PARTIES IN LIEU OF THE INSTRUMENTS, IT BEING UNDERSTOOD THAT SUCH DESCRIPTIONS ARE OF LANDS DULY GRANTED ON THE RESPECTIVE DATES OF PATENTS MENTIONED.

*NOTE.—In this connection, reference should be made to plan No. 25 in Appendix of Maps.  
TOWNSHIP OF BERTIE.*

80	No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
	Broken Front 1	Wm. Dunbar..... ....	17 April, 1817...	All that parcel or tract of land situate in the Township of Bertie, in the County of Lincoln, in the District of Niagara, in our said Pro-



TOWNSHIP OF BERTIE—*Continued.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
10			vince, containing by admeasurement twenty acres with an allowance for road from Chippawa to Fort Erie, and with an allowance of one chain for road from the Fort Erie road aforesaid to the north-western boundary of the said twenty acres, be the same more or less, being the broken front of lot number one, in the said Township of Niagara, on the Niagara River, being the mill site containing about twenty acres, from the water's edge. Together with all the woods and waters thereon lying and being under the reservations, limitations and conditions hereinafter expressed; which said twenty acres are butted and bounded, or may be otherwise known as follows, that is to say: Commencing on the Niagara River in the limit between lots number one and two, and at the north-east angle of the said lot number one; then west seven chains, crossing the Fort Erie Road; then south thirty-seven degrees west twenty-five chains, more or less, to within one chain of the military reserve at Fort Erie; then East five chains, more or less, to the Niagara River; then north-easterly and northerly along the water's edge with the stream to the place of beginning.
20		Recorded 19th April, 1817.	D'ARCY BOULTON, <i>Attorney-General.</i>
			Order in Council, 8th April, 1817, under the Administration of Lieutenant-Governor Gore, for the above mill site of about twenty acres, under Regulations 6th July, 1804. Patent fee and Survey paid 16th April, 1817.
E. part	1 John Garner.....	22 June, 1796...	Within one chain of top of bank.
30 W. $\frac{1}{2}$	2 Henry Windecker.....	6 May, 1796....	Within one chain of top of bank.
	3 Benj. Hardison.....	6 March, 1820...	One chain from river.
	3 Benj. Wintermute.....	10 Aug., 1801...	One chain from river.
	4 John Warren.....	24 Aug., 1796...	One chain from river.
	5 Cornelius Bowen.....	24 May, 1798...	One chain from river.
	6 Abraham Wintermute	8 July, 1797....	One chain from water's edge.
S. pt. 8	7 Henry Putman.....	31 Dec., 1798....	One chain from water's edge.
S. pt. 8	Henry Anguish.....	30 July, 1806...	One chain from the river.
S. pt. 8	P. Wintermute .....	12 April, 1801...	One chain from the river.
S. pt. 9	do .....		
N. pt 9	W. M. Powell.....	1 Nov., 1820.....	One chain from the river.
10	Christian Risley.....	5 April, 1797....	One chain from water's edge.



TOWNSHIP OF BERTIE—*Concluded.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
10  Lots fronting on the River Niagara nearly opposite the southern end of Grand Island.	1 F. Berger .....	1 Dec., 1798....	One chain from water's edge.
	2 John Carl.....	1 Dec., 1798....	One chain from the water.
	3 P. Wintermute.....	10 Aug., 1801...	One chain from water's edge.
	4 John Wintermute.....	17 May, 1802...	One chain from water's edge.
	5 Capt. John Powell.....	15 Dec., 1796...	One chain from the water.
	6 do .....	do ...	One chain from the water.
	7 Abraham Herseye .....	3 Sept., 1802...	One chain from water's edge.
	8 Benjamin Wilson .....	31 Dec., 1798...	One chain from water's edge.
	9 John Mabee.....	1 Dec., 1798....	One chain from water's edge.
	14 And. Miller.....	19 June, 1801...	One chain from the river.
	15 Geo. Wintermute.....	10 Aug., 1801...	One chain from water's edge.
	16 Benj. Hardison.....	13 Feb., 1797...	One chain from Niagara River.

## TOWNSHIP OF WILLOUGHBY.

(Broken Fronts on Niagara River.)

10	Benj. Hardison .....	10 Feb., 1797...	One chain from Niagara River.
11	Lewis Mabee .....	14 Dec., 1805...	One chain from top of bank.
12	do .....	do ...	One chain from top of bank.
20  Fronting upper end of Grand Island and near Black Creek.	13 do .....	14 Dec., 1798...	One chain from the river.
14	And. Howland.....	12 Jan., 1798....	One chain from the river.
15	Geo. Howe.....	17 May, 1802...	One chain from the river.
16	Abraham Beams .....	27 May, 1797...	Grant goes to River Niagara.
17	do .....	do ...	Grant goes to River Niagara.
18	do .....	do ...	Grant goes to River Niagara.
19	do .....	do ...	Grant goes to River Niagara.
20	do .....	do ...	Grant goes to River Niagara.
S. $\frac{1}{2}$ 3	do .....	do ...	Grant goes to River Niagara.

Black Creek

TOWNSHIP OF WILLOUGHBY—*Concluded.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
N. $\frac{1}{2}$ 3	Parshall Terry.....	24 Aug., 1796...	Grant to River Niagara.
10 4	do .....	do ...	Grant to River Niagara.
Fr'tg lower end of Grand Island in front of 1st con. { 5	Robt. McKinlay.....	10 Mar., 1797...	Grant to River Niagara.
6	John Rowe.....	27 June, 1801...	One chain from the river.
7	Jonas Carl.....	16 Mar., 1797....	One chain from the river.
8	John Thomas.....	12 June, 1798....	One chain from the river.
9	Jos. Harrison.....	12 June, 1798...	One chain from the river.
10	Jas. Brown.....	16 Mar., 1797...	One chain from the river.
11	Thos. Cummings.....	17 May, 1802...	One chain from water's edge.
12	John McEwan.....	6 May, 1796.....	Grant to Niagara River.
13	do .....	do ....	Grant to Niagara River.
14	Wm. Burns.....	24 Oct., 1798....	One chain from the river.
15	Ed. Richardson.....	5 April, 1797...	One chain from the river.
16	Wm. Shaver.....	24 May, 1798....	One chain from the river.
17	John Garner.....	24 Aug., 1796....	Grant went to River Niagara.
20 18			
19	Samuel Street.....	23 July, 1798....	One chain from the river.
20			
21	Thos. Cummings.....	27 May, 1797...	One chain from the river.
22	Samuel Street .....	23 July, 1798....	One chain from the river.
23	Thos. Cummings .....	27 May, 1797...	One chain from the river.
22	Thos. Cummings.....	20 May, 1797...	One chain from the river.

## TOWNSHIP OF STAMFORD.

30 191 & B. F. 191 192 & B. F. 192 & 193	John Burch.....	12 Sept., 1796...	Containing five hundred and seventy acres of land which are butted and bounded, or may be otherwise known as follows, that is to say:—
--	-----------------	-------------------	---



## TOWNSHIP OF STAMFORD—Continued.

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
10			Beginning at the south-east angle of Lot 37, thence west fifty chains, thence south forty chains, thence east fifty chains, thence north forty chains to the place of beginning; thence again beginning at the distance of one chain from the River Niagara at a post marked 191, thence following the several windings of the river against the stream, always at the distance of one chain from the said river, to the mouth of the River Welland, thence up the north bank of the Welland to within one chain of the south-east angle of lot number 222, being the third lot on the said river, thence north to the south boundary of lot number 193, thence west till within one chain of 194, and thence north to the place of beginning, being within one chain of the River Niagara as aforesaid, <u>reserving nevertheless to us, our heirs and successors, the tract of land hereinafter described, lying within the lot last above mentioned and granted, that is to say: beginning at the south-west angle of the ground reserved, picketing around the King's store and wharf, thence along the boundary line of the said land reserved for us, our heirs and successors, nearly parallel with the eastern fence of the garden of the said John Burch, nine hundred feet more or less, thence at right angles thereto, easterly to Niagara River, thence according to the courses of the River Niagara and Welland, one chain distant against the stream, to the place of beginning.</u>
20			
30	James Ramsay.. .... & 194	1 Mar., 1797....	Containing two hundred acres of land which are butted and bounded, or may be otherwise known as follows, that is to say:—Commencing in the line between 191 and 190, at the distance of one chain from Niagara River, thence south thirty-five chains, thence west fifty chains, thence north forty chains, thence east to within one chain of Niagara River, and thence along the bank against the stream, at the distance of one chain from the river, to the place of beginning.
40	175 174 & $S\frac{1}{2}$ 160	19 April, 1798...	Containing three hundred and ninety acres of land which are butted and bounded, or may be otherwise known as follows, that is to say:—Beginning in the limit between lots number 175 and 190, within one chain of Niagara River, then west eighty-nine chains, then north sixty-one chains, then east to within fifty-one chains of Niagara River, then southerly parallel to the river, to the centre of lot number 160, then east to within one chain of Niagara River, then southerly always at the distance of one chain from the River, to the place of beginning.
	$N\frac{1}{2}$ 160 159 & $S\frac{1}{2}$ 145	14 Feb., 1798....	Containing two hundred acres of land which are butted and bounded, or may be otherwise known as follows, that is to say:—Beginning at the south-east Angle of lot number 146, at a point and post where the

~~Sept 12 1816 - Peter Smith  
got his M<sup>th</sup> in Aug 1792 - Peter Smith  
13 Nov 1793 when he  
left New York~~

2 Jan 1816 went to New York

The so called History Review

TOWNSHIP OF STAMFORD—*Continued.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
10			lots number 145, 146—159 are nearly in contact, then west along the northern boundary of the whole lot number 159—fifty chains, then south along the western boundary of the said lot twenty chains, then east to within fifty-one chains of Niagara River thirteen chains more or less, then southerly parallel to the shore of the river ten chains more or less, to the centre of lot number 160, then east to within one chain of the said river fifty chains, then northerly along the bank, always at the distance of one chain from the <u>top of the bank</u> , to the centre of lot number 145, then east up the centre of number 145, twenty-three chains, then south ten chains to the place of beginning.
20	143 144 146 & $N\frac{1}{2}$ 145	James Forsyth..... 31 Dec., 1798....	Containing three hundred and eight acres of land which are butted and bounded, or may be otherwise known as follows, that is to say: Beginning at a post one chain from the top of the bank of Niagara River, in the limit between number 129 and 144, then west to within one chain of lot number 142, ninety-nine chains more or less, then south forty chains, then east fifty chains, then north ten chains, then east to within one chain of the <u>top of the bank</u> of Niagara River, then northerly along the <u>top of the bank</u> , at the distance always of one chain from the edge thereof, with the stream, to the place of beginning.
30	111 127 128 129 & broken land.	Philip Bender..... 16 March, 1797.	Containing three hundred and ninety acres land which are butted and bounded, or may otherwise be known as follows, that is to say: Beginning at the south-east angle of lot No. 110, at the distance of one chain from the top of the bank of Niagara River, thence west to within one chain of lot number 112 fifty-three chains, more or less, thence south twenty chains, thence west fifty-one chains, thence south forty-one chains, thence east to within one chain of the <u>top of the bank</u> aforesaid, thence along the bank with the stream of the river, always at the distance of one chain from the edge thereof, to the place of beginning, with an allowance for roads.
40	93 94 & 110	William Brown..... 2 Sept., 1803....	Containing three hundred acres of land which are butted and bounded, or may be otherwise known as follows; that is to say: Commencing at the north-east angle of the said lot number 93, at the distance of one chain from the top of the bank of the Niagara River, then west one hundred and three chains, more or less, to within one chain of lot number 95, then south twenty chains, then east fifty-one chains, then south twenty chains, then east to within one chain of the <u>top of the bank</u> aforesaid, then northerly along the bank, with the stream of the river, always at the distance of one chain from the top of the bank, to the place of beginning.



TOWNSHIP OF STAMFORD—*Continued.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
10	92 John Donaldson.....	17 May, 1802....	Containing one hundred acres of land, which are butted and bounded, or may be otherwise known as follows; that is to say: Commencing within one chain of the bank of the River Niagara at the division between lots number 92 and 93, thence west to within one chain of the division between lots number 91 and 94, fifty-four chains, may it be more or less, thence north twenty chains, thence east to within one chain of the bank of Niagara River, thence parallel to the said bank, and at the distance of one chain therefrom, following its several courses and windings, against the stream, to the place of beginning.
20	75 & broken land.	John Chisholm.....	17 May, 1802... Containing eighty-eight acres of land which are butted and bounded, or may be otherwise known, as follows, that is to say: Commencing at the distance of one chain from the bank of the River Niagara, near the Whirlpool, at a certain post, tree or place about one mile and three quarters south of the north boundary of said Township, running thence about three chains west to the concession line (running north and south), thence south forty-one chains along said concession line, thence east to within one chain of the River Niagara, thence northerly and following the course of the river downwards, always at the distance of one chain from the top of the bank, to the place of beginning, comprehending an allowance for a road of a chain wide running westward from the River Niagara, and in the middle of the said tract or equi-distant from its north and south boundaries.
30	74 Robert Spencer.....	24 Aug., 1796...	Containing one hundred acres of land, which are butted and bounded, or may be otherwise known as follows, that is say: Beginning at the south-west angle of lot number 59, thence south twenty chains, thence east fifty chains, thence north twenty chains, thence west fifty chains to the place of beginning.
40	59 Jacob Bowman.....	31 Dec., 1798...	Containing two hundred acres of land which are butted and bounded, or may be otherwise known, as follows, that is to say: Beginning at a post at the south-east angle of lot number 59, then north forty chains, then west fifty chains, then south forty chains, then east fifty chains to the place of beginning.
41 & 58	41 & 58 John Thompson.....	17 May, 1802...	Containing one hundred and sixty acres of land which are butted and bounded, or may be otherwise known, as follows, that is to say: commencing at a post in front of the front concession, at the distance of one chain from the top of the bank for a road, in the limit or conces-

running north & south - 'the Conception'

a Road of a chain wide (side line  
see map)

" 74 did not go to the River - see plan

" 59 did not <sup>to</sup> go to the River see plan being  
bounded in front by the original  
Conception

TOWNSHIP OF STAMFORD—*Concluded.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
			sion line nearest the river in front of lot number 58, then north to lot number 39, twenty-seven chains more or less, then west fifty chains, then south to within one chain of the edge of the bank, then east, always at the distance of one chain from the edge for a road, to the place of beginning.
10	21 & 40	James Park.....	16 May, 1798.... Containing sixty-six acres of land, which are butted and bounded, or may be otherwise known, as follows, that is to say: Beginning at a post in front of the front concession at the distance of one chain from the top of the bank for a road in the limit between lot number 40 and the broken front of lot number 41, thence northerly along the bank, always at the distance of one chain from <u>the edge of the bank for a road</u> , to within one chain of lot number 20, thence west forty-six chains, more or less, thence south forty chains, thence east to <u>within one chain of the edge of the bank</u> at the place of beginning.
20	20	Archibald Thompson..	17 May, 1802.... Containing two hundred and two acres which are butted and bounded, or may be otherwise known as follows, that is to say: Commencing at a post in front of the front concession within one chain of the top of the bank of Niagara River, then northerly, along the bank, always at the distance of one chain, <u>for a road</u> , from the edge thereof, to lot number 1, then west one hundred and seven chains, more or less, including <u>another chain for a road</u> , then south twenty chains, then east to <u>within one chain of the edge of the bank</u> at the place of beginning.
30	1 & 2	Thomas Mc. Micking..	1 Dec., 1798..... Containing two hundred and twenty acres of land, which are butted and bounded, or may be otherwise known as follows, that is to say: Beginning at the north-east angle of lot number 20, within one chain of the top of the bank of Niagara River, then west one hundred and five chains, then north twenty chains, then east to <u>within one chain of the top of the bank of the said river</u> , then southerly, at the distance always of one chain from the top of the bank, to the place of beginning.

## TOWNSHIP OF NIAGARA, OR NEWARK.

1 and the lot 40 in front thereof, also part of gore	Daniel Rose.....	16 May, 1798....	Containing two hundred and sixty acres of land which are butted and bounded, or may be otherwise known as follows, that is to say: Beginning at a post in front of the river concession, in the limit between lot number 1 in Stamford and the said gore, on the bank of and
--	------------------	------------------	--



## TOWNSHIP OF NIAGARA, OR NEWARK—Continued.

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
bet'n Newark & Stamford.			at the distance of one chain from Niagara River, thence northerly along the bank twenty-nine chains, more or less, always at the distance of one chain from the water's edge, to lot number 2, thence west eighty-nine chains, more or less, thence south twenty-nine chains, and thence east to within one chain of Niagara River at the place of beginning.
10	2 Elijah Phelps.....	16 May, 1798....	Containing seventy-two acres of land which are butted and bounded, or may be otherwise known as follows, that is to say: Beginning at a post in front of the front concession marked 1-2, on the bank of and at the distance of one chain from Niagara River, that being the north-east angle of lot number 1, thence northerly along the bank twenty chains, more or less, always at the distance of one chain from the water's edge, to within one chain of lot number 3, thence west thirty-six chains, more or less, thence south twenty chains, thence east to within one chain of the River Niagara, at the place of beginning.
20	3 Samuel Street..... and broken land in front.	20 Dec., 1798....	Containing one hundred and fifty acres of land, which are butted and bounded, or may be otherwise known as follows, that is to say: Beginning in the limit between lots number 2 and 3, at the distance of one chain from Niagara River, from thence along the said limit west to the line of the second concession, eighty-six chains, more or less, from thence north along the said concession line to the southernmost boundary of the ground reserved for Government, from thence along the boundary, parallel with the edge of the mountain, on a course about north sixty-six degrees east, nearly, to a post at a re-entering angle of the said reserve, sixty-six chains, more or less, and from thence, bounding on the said reserve, on a course about south seventy-eight degrees east, to within one chain of Niagara River, then southerly along the bank, or shore, against the stream, always at the distance of one chain from the water's edge to the place of beginning.
40	Part of 4 & its broken front.	30 Samuel Street.....	Containing one hundred acres of land, which are butted and bounded, or may be otherwise known as follows, that is to say:—Beginning where the side line, between lots number 4 and 5, intersects the boundary of the ground reserved for Government at the Landing called Queenston, on the bank of the River Niagara, above the place where the waggons wait, and a little in the rear of the said Samuel Street's house, from thence ascending towards the mountain, and running along the boundary of the said Government ground, to a post below the ridge of the said mountain, at a re-entering angle of the said reserve, a little within the corner of an old fence, about the distance of fourteen chains, more or less, on a course south thirteen degrees east from the place of beginning to the said post, from thence bounding upon the

*waters edge*



TOWNSHIP OF NIAGARA, OR NEWARK—*Continued.*

No. of Lot on River.	Name of Pattee.	Date of Patent.	Description.
10			said reserve below the mountain, and nearly parallel thereto, on a course about south sixty-six degrees west, forty-seven chains, more or less, to another re-entering angle of the said reserve, and a post planted nearly below the ridge where it forks or breaks, from thence parallel to the southernmost ridge, nearly on a course about south eighty-one degrees east to the line of the second concession, from thence along the said concession line north to the southernmost boundary of lot number 5 in the occupation of Elijah Phelps, Esquire, and from thence along said boundary between the lots number 4 and 5, by the nearest line that which can be drawn, to the place of beginning.
5 with greatr part of the brkn front.	Elijah Phelps.....	1 July, 1799.....	Containing seventy acres of land which are butted and bounded or may be otherwise known as follows, that is to say:—Beginning at a post in front of the said concession, marked $\frac{1}{2}$ in the limit between lots number 5 and 6, and within one chain of the waters of Niagara River, then south sixty-nine degrees west sixty-eight chains and seventy-two links, more or less, to the second concession, or range of lots, then south to lot number 4, ten chains more or less, then north sixty nine degrees east sixty-eight chains and seventy-two links, more or less, parallel to the ridge of the mountain to the boundary of the reserve, then along the said boundary, northerly to a post on the bank near a house, then easterly a short distance to <u>within one chain of Niagara River</u> , then northerly always at the distance of one chain from the river, to the place of beginning.
20			
30	Hon. Robert Hamilton	23 March, 1798.	Containing three hundred and ten acres of land which are butted and bounded, or may be otherwise known as follows, that is to say:—Beginning <u>within one chain of the water's edge</u> of the River Niagara, in the limit between lots numbers 6 and 7, thence along the said limit fifty minutes to the southward of west, nearly fifty-one chains and seventy-three links to the front line of the second concession, thence along the said concession line, south one degree eleven minutes east nearly, forty-eight chains andt twenty-four links, more or less, to the limit between the lots 5 and 6, thence along the said limit north sixty-nine degrees east nearly, <u>to within one chain of the water's edge</u> of Niagara River, thence north-westerly with the stream always at <u>the distance of one chain from the water's edge</u> to the place of beginning, being lot 6. Then again beginning at a post marked $\frac{1}{2}$ at the south east angle of lot number 41, thence north twenty chains, then west fifty chains, then south twenty chains, then east fifty chains to the place of beginning, being lot 41.
40	7 and a small	12 June, 1798...	Containing two hundred acres of land which are butted and



TOWNSHIP OF NIAGARA, OR NEWARK—*Concluded.*

No. of Lot on River.	Name of Patentee.	Date of Patent.	Description.
brkn front; also 40.	bounded, or may be otherwise known as follows, that is to say:—Beginning at a post in front of the front concession marked 6, on the bank of, and at the distance of one chain from Niagara River, that being the north east angle of lot number 6, thence northerly along the bank twenty chains, more or less, always at the distance of one chain from the water's edge, to lot number 8, thence west fifty chains, more or less, thence south twenty chains, and thence easterly to within one chain of the River Niagara at the place of beginning—thence again beginning at a post marked 4½ R. at the south east angle of the said lot number 40, thence north twenty chains, thence west fifty chains, thence south twenty chains, and thence east fifty chains to the place of beginning.		
10	Adam Vrooman.....	12 June, 1793...	One chain from the water's edge.
	Jas. Durham.....	31 Oct., 1803...	One chain from the water's edge.
	Adam Vrooman, <i>et al.</i> .....	17 May, 1802...	One chain from the water's edge.
	A. Cunningham.....	16 May, 1798...	One chain from the water's edge.
	Jas. Ramsay.....	1 Sept., 1797....	One chain from the river.
13 {	Jos. Brown.....	12 June, 1798....	One chain from water's edge.
14 {	Gilbert Fields.....	1 Jan., 1794....	One chain from the river.
20	Wm. Baker .....	30 Sept., 1796....	One chain from the river.
	Alex. Auldjo.....	30 June, 1801....	One chain from the river.
	Henry Johnston.....	10 Aug., 1801...	One chain from the river.
	Robt. J. D. Gray.....	10 Aug., 1801...	One chain from water's edge.
	Isaac Swayze.....	30 June, 1801...	One chain from water's edge.
	John McFarland.....	15 Jan., 1799...	One chain from water's edge.
22 {	Jno. McFarland.....	31 Dec., 1798....	One chain from water's edge.
30			A parcel of land above Navy Hall near the west line patented to Wm. Dickson 20th November, 1797, twenty-four acres, one chain from the river.
			A tract above Navy Hall patented to William McClellan 10th June, 1801, sixty acres, one chain from river.



## No. 33.

REPORT OF SURVEYOR-GENERAL D. W. SMITH TO ADMINISTRATOR  
OF THE GOVERNMENT OF UPPER CANADA, RELATING TO THE  
DESCRIPTION OF LANDS IN THE TOWNSHIP OF WILLOUGHBY,  
DATED 23<sup>RD</sup> MARCH, 1797, WITH TWO PLANS ACCOMPANYING IT.

SURVEYOR-GENERAL'S OFFICE, 23rd March, 1797.

SIR,—The following certificates have been lodged with me to make out descriptions thereon, for the title deeds in the Township of Willoughby.

No. 1.....	Philip Stedman, senr.....	Lots No. 14 & 15.....	3rd Concession.
10 No. 2.....	do	Lots No. 19 & 20.....	1st do
No. 3.....	do	Lot No. 18.....	2nd do
No. 4.....	do	Lots No. 19 & 20.....	2nd do
No. 5 .....	William Adams.....	Lot No. 18.....	3rd do
No. 6.....	Thomas Cummings.....	Lots No. 21 & 22.....	2nd do
No. 7.....	Philip Steadman, transferred to Thomas Cummings.....	Lots No. 21 & broken fronts .....	1st do

To prevent any misunderstanding on my part, with respect to the lots intended, for the above persons respectively, I beg leave to lay the same before your Honour, 20 for your approbation therein.

By the plan sent from Major Holland's office, the broken fronts appear to be less than they prove to be, on a survey of the grounds—as set forth by the two plans annexed, the upper one being copied from the Quebec Map, the under one from a protraction of a late survey.

The names written in black are the same as the entrys on the Quebec Plan, when I received it, and those written in red are according to the literal construction of the Land Board Certificates, which I have conjectured to be wrong, and agreed in by Mr. Stedman (attorney to his uncle) and by the present possessor (Mr. Street).

I am therefore to procure your Honour's sanction to describe for Philip Stedman 30 Senr., the lots number 18, 19 and 20 in the first concession, with the broken fronts of 19 and 20, as found to be on the survey, and so much of lots 21 and 22 as lies to the eastward of a red dotted line transversely now across these lots, being an original limit, and which Mr. Cummings as transferee to Mr. Phil. Stedman, gives up on condition of getting the land as originally bounded and laid down in the undermost plan.

Mr. Stedman requests, if the broken fronts cannot be allowed and thrown in, that he may be permitted to resign the assignments for lots number 14 and 15, 2nd concession, so as to cover the broken fronts, which are very considerably improved.

As this transaction is grounded originally in confusion, I submit to your Honour, 40 whether it may not be best to destroy the four certificates to Mr. Stedman, and draw the descriptions to issue upon an order of Council.



If I had rigidly adhered to the Quebec Plan, I might have executed the business without troubling your Honour, and taking up your time, but where valuable improvements are in question, and as exactness is expected from the King's officers, I hope your Honour will pardon my not exercising any supererogation, and permit me to apply to you in such cases—in the doing of which I have preferred this mode by letter, to that of formal report, that the public may be at no expense in laying this matter before your Honour. I enclose a copy of Mr. Stedman's letter of 30th December, 1796—and if I might risk an opinion on the cause of the difference in the broken front, it would be, that the draughtsman at Quebec had shortened it 10 to squeeze it into the sheet.

I am, respectfully your Honour's Servant,

D. W. SMITH, A. S. G.

His Honour the Administrator.

*Peter Russell* ANSWER OF THE ADMINISTRATOR.

27th March, 1797.

SIR,—I have attentively perused your Letter of the 23rd, this moment received, & the certificates and plans inclosed—and I much fear the description you propose for Mr. Stedman, Senr., of the lots 18, 19 & 20 in the first concession of Willoughby, with the broken fronts of Nos. 19 & 20, will not only vary from the land intended to 20 have been assigned by the Land Board, but break in, most essentially, upon the portion of ground proposed to be reserved along the River Niagara, from Lake Ontario to Lake Erie, for roads and other purposes, and to prevent which the Quebec Plan may possibly have been drawn short of the real quantity from the river, as intended only to comprise the land within the power of the Land Board to give away—and I am persuaded this was also the Land Board's reason for assigning the Concessions, as expressed in their Certificates, that they might not interfere with that very essential Reserve of the Engineer to Government.

It would no doubt be very convenient to Mr. Street and Mr. Cummings as transferers to the two Stedmans, to have the land described to them, as expressed in the 30 lower plan, as their lands would then extend to the waters of Chippewa and Niagara, thereby shutting the public out of the use of any part of it except a small nook, which I observe to be marked off on the south side of the mouth of the Chippewa. But I am clearly of the opinion that it is of the utmost importance to Government, that all the land now vacant on both sides of Chippewa Bridge, should be reserved to the Crown for barracks, store houses and other public services, and if that can be done, by confining the grantees to the quantities and assignments expressed in their certificates, it should not, in my opinion, be neglected.

The faith of Government, is, unquestionably, pledged to confirm all Land Board Certificates. But where the Land Boards appear to have been manifestly ignorant of 40 what they have granted, and to have exceeded their powers, as in this particular instance, by granting 800 acres to the same person in one day, and marking the



assignment on the map sent to the Surveyor-General's Office differently from those annexed to their certificates—no descriptions ought to issue on such certificates and assignments, until the Council has determined upon their propriety—I must, therefore, take leave to request you will bring these certificates before the Board, and suspend your descriptions until their pleasure shall be known.

S.G.O., 28th March, 1797.

His Honour the Administrator.

SIR,—On returning from Council I found your honour's letter of yesterday, and have, in consequence thereof, enclosed the Willoughby certificates to the Clerk of the 10 Council.

To exonerate myself in regard of what I suggested to your honour, I hope you will pardon me for enclosing the copies of two papers, which I hope will show your honour, that I could have no view of breaking in on the ground proposed to be reserved along the river, or of interfering with the Reserve of the Engineer.

I am, &c.,

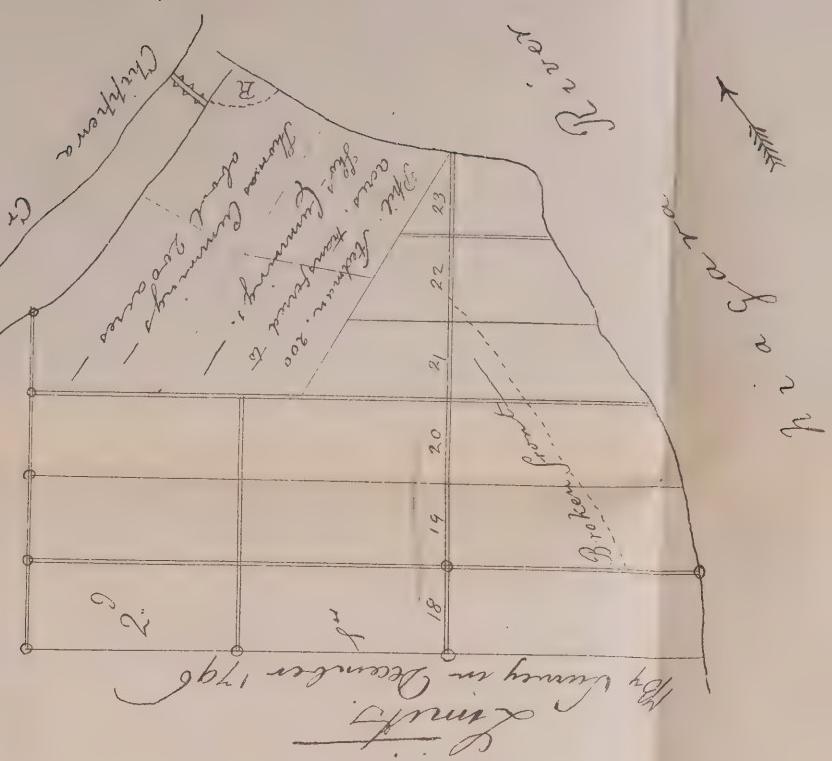
(Signed.) D. W. SMITH, A.S.G.

(Enclosure with exhibit N° 33)

Old King is a  
original of new  
King of the  
old



we went to the  
- in the Spring Diamond offic  
Spring Diamond, Canada  
at age 6.  
*John Macle*



J Han

2.07

Part of the Township of  
Willoughby near the Chipp  
ewa Bridge, comprising the  
lands claimed by the Indians  
and Indians.



**No. 34.**

PETITION OF ROBERT RANDALL AND ORDER IN COUNCIL THEREON  
LEADING UP TO SURVEY BY MR. STEGMAN.

YORK, Nov. 12th, 1798.

HONOURABLE PETER RUSSELL, Esquire,  
President of the Province of Upper Canada,  
&c., &c., &c., in Council.

The Petition of Robert Randall, humbly prays your honours, to grant him the privilege of erecting and establishing Iron Works, at, or near, the waters of River 10 Niagara, in the province aforesaid. Your Petitioner further prays your honours to grant, or lease him, for Nine hundred and ninety-nine years, a certain slip of land reserved for the use of Government, lying and running with the waters of Niagara River, from the mouth of Chippaway Creek until it intersects the south end of a certain line of a slip of land granted or leased to John McGill & Benjamin Canby, Esquires, and also from the south end of the east line of said reserve, to the waters' edge of Niagara River, and from thence five chains length into the mouth of Chippaway, from thence running a line down the river parallel with the banks, the line to intersect the east side of the south part, or end, of a small island, or islands, opposite said mills, formerly belonging to McGill & Canby as aforesaid, together with all water 20 and water courses touching and including said banks, wherever it may not interfere with the grant, or lease, made to said McGill & Canby. Also your Petitioner prays a lease for the aforesaid term of time, of the one or otherwise three small islands lying and being in the River Niagara, opposite the mills aforesaid, and from the west side of said island or islands, to the banks of said river, including all the banks and government reserve, not interfering with the lease aforesaid, until it strikes a broken old black oak tree, being and standing on the bank of said river, a point opposite the north end of said island or islands, and from said tree to the end of said island, allowing one chain in the water from said point of island, together with all water, water courses or bed of said river, lying and being betwixt said island or islands and 30 banks of said river, and two chains' length from the east side of said islands into the main body of Niagara. And further your Petitioner prays the privilege of raising, carting and working, any Iron Ore reserved by His Majesty, where your Petitioner may find the same most convenient, and should a body of Iron Ore be found on any of the lots reserved for the use of Government, lying or being in the neighbourhood of the Chippaway waters, or waters running into Chippaway, the privilege of locating the same, or a lease for and during the term aforesaid, or if mountain or stone ore, should be found on any of the lots reserved for Government use, lying within a distance to admit of being brought advantageous to the works, then in that case, the privilege of raising elsewhere to be extinct. Also your Petitioner prays your 40 honours to grant or lease, as aforesaid, a body of land where it may be located most convenient, tho' the unlocated lands may lie too remote to be convenient to supply



the works with wood for coals. Your Petitioner will, in his opinion, be able, by allowing a difference in exchange, to procure land lying in bodies convenient for his use, as a consumption of fifteen thousand cords of wood yearly will lay works liable to be much imposed on, should the consumption of coals depend on the neighbours' plantations; further, your Petitioner humbly prays your honours may, in your wise counsel, consider the propriety of your Petitioner praying the exclusive privilege of erecting, and establishing, works for the manufacturing cast and wrought iron, in the Province of Upper Canada, and prays the same to be granted for, and during the term of Twelve years from the date of the privilege so granted, as one set of works 10 will be competent to supply this Province with all cast and wrought iron, for a lengthier time, the privilege to lay open for other establishments it will fall heavy on the first undertaker. The first that undertakes the establishment will find it arduous, and the expense vastly great. Your honours are knowing how difficult it will be to get labourers, and the price of lime enormous in the highest degree, provisions scarce, and vastly high, materials and utensils for the business difficult to be got, as they must be brought a great distance, and that at great expense. Yet the task must fall on some one, for so fertile and fine a country as this is, makes it much to be pitied an establishment for manufacturing Iron was not already made, as a supply of the article of potash kettles, may be justly said to be a fund for every settler, as well 20 those gentlemen holding bodies of land to pay for clearing and making complete farms. And may it please your honours, as quick as the first establishment has waded through every difficulty and gets into blast, that moment materials are furnished for any person to erect works, at the fourth part of the expense; as the first establishment brings machinists and labourers, as well the farming interest, augmented to supply provisions much reasonably. However, your honours' Petitioner is happy to submit the consideration of the whole to your wise counsel, and being fully convinced, your honours will strengthen and encourage so desirable undertaking, to any person who is willing to come forward in so arduous a task, and with pleasure wait the result of your wise decision.

30 Your Petitioner, in duty bound, will ever pray.

ROBERT RANDALL.

*(Endorsed on the foregoing.)*

Robert Randall, for an Iron Manufacture, received Nov. 12, '98.

Received same day. Recommend that a Survey on a large scale be made of the shore of the River Niagara, from the Table Rock to Chippaway Bridge, with such sketches of the islands, by intersections, as can be had. The further consideration of the Petition postponed till the Survey is made.

Confirmed.

P. R.

J. E.

40 Copy of the whole sent to the Government Office, July 28th, 1824.

Copy of the whole sent to the Government Office to Mr. Mudge, 17th February, 1830.



**No. 35.**

## INSTRUCTIONS TO SURVEYOR STEGMAN TO SURVEY THE NIAGARA RIVER FROM TABLE ROCK TO CHIPPEWA BRIDGE.

No. 187.

S.G.O., 13th November, 1798.

MR. STEGMAN.

SIR.—You will proceed to Niagara without delay, and from thence to execute a Survey on a large scale of the shore of the River Niagara, from Table Rock to the Chippewa Bridge, taking such sketches of the Islands, by Intersections, as can be had.

10 In the performance of this business you cannot be too particular, except that you are not to be unnecessarily nice. Your remarks will be generally confined to a Strip of a Chain wide from the waters edge, noting, however, the adjacent flats, risings, banks, creeks, currents, rapids, rocks and such like, together with the improvements within the chain (and sketched adjoining) of the late Mr. Burch, and Messrs. Canby and McGill, whose claims you will protract when you lay down your work; together with the boundary of the Military Reserve, below the mouth of the Chippewa, of which Captain Pilkington will probably be good enough to give you some information, upon your making application to him for the purpose.

20 The high road is to be noted where it comes (within the chain) and sketched where it is near to it. Exclusive of the information immediately sought for by this instruction, your report will be open to such general or particular remarks, as your observation, judgment, or duty may suggest; for which purpose it may not be improper to inform you, that this survey is ordered by His Honour in Council, in consequence of a Petition from Mr. Robert Randall, who talks of establishing an Iron Manufactory in the neighbourhood of Canby's Mill, if he can get permission, with whom you are to have communication on the subject.

I am, Sir, your humble servant,

D. W. SMITH, A. S. G.

P.S.—You will keep a particular account of the expense of this survey, and 30 execute it with as small a party as practicable.

D.W.S



24<sup>a</sup> Station foot of  
opposite the foot of  
Cedar Island

## No. 36.

### REPORT OF MR. STEGMAN UPON HIS SURVEY.

#### REPORT OF THE SURVEY FROM THE CHIPPEWA RIVER TO THE TABLE ROCK, NEAR NIAGARA FALLS.

SIR,—Agreeable to your Instructions for the aforementioned Survey—I proceeded to Table Rock and reconoitering the ground found it necessary to begin the Survey at the Chippewa River; from whence the situation of the country became in full view. My first station was at the distance of one chain to the west of Chippewa Bridge, from thence proceeded to traverse, agreeably to your instructions, and keeping the distance of one chain from the water's edge, until I arrived to the highest banks at 10 the 24th Station, being impossible from thence to keep the distance of one chain from the waters edge, on account of swamp, therefore kept the edge of the high banks, as near as possible, until I arrived opposite the Table Rock.

All remarkable objects have been taken with as much accuracy as possible the situation of the country would admit of, together with the buildings, rapids, falls, islands, and main roads, as will appear by the protraction of the work. The north shore of this plan is laid down imaginary, except Stedmans House, which I made an object in order to obtain the distance of the north shore, and found the same to be one mile thirty three chains and fifty links. The main Falls of Niagara, by an angle of altitude, I found to be 137 feet. The lands in general from the 1st Station to 20 the 30th are most of an unequal quality, and may be called good lands. The banks of the south shore from the mouth of the Chippewa River increases gradually to Wilsons House, opposite the Falls, from whence I consider the banks to the Table Rock to be 150 feet in height.

I have the honor to be Sir,

Your Most Obedient & Humble Servant,

JOHN STEGMAN, *Dy. Surveyor.*

January 8th, 1799.

## No. 37.

### MINUTES OF COUNCIL UPON PETITION OF MR. RANDALL AND MR. STEGMAN'S SURVEY.

30

COUNCIL CHAMBER AT YORK, 11th January, 1799.

#### PRESENT:

The Honourable John Elmsley, Chief Justice,  
" John McGill,  
" D. W. Smith.

The Acting Surveyor-General reported to the Board, that the survey ordered to be made of the shore of the River Niagara from the Table Rock to the Chippawa Bridge was finished.

On Stegman's Plan - the commencement  
and end of Swayze's licence is marked  
but as the license was granted on  
9 May 1804 see page 145. That  
note must have been added afterwards  
and so accounts for no observation  
by Stegman in his Report

It was laid on the table.

The Board then proceeded to the further consideration of the petition of Mr. Randall for a lease or grant of part of the said shore. Mr. Randall was called in and examined. In consequence the Board came to the following resolution, viz. :—

Mr. Randall having this day declared that the exclusive possession of the Reserve between the Military Reserve at the Chippawa and the head of Canby's Mill-race is indispensably necessary to the purposes of his undertaking. The Board, without examining whether it would be proper to accede to the rest of his requisitions, is unanimously of opinion that the prayer of his Petition cannot be granted.

10      Adjourned.

### No. 38.

*Lever Wildmet*  
FURTHER PETITION OF ROBERT RANDALL, AND ORDER IN COUNCIL,  
WITH THE AFFIDAVIT OF MR. SAMUEL STREET, SWORN 8TH  
JANUARY, 1824, ATTACHED.

YORK, January 14th, 1799.

To His Honour Peter Russell, Esqre, President, Administering the Government of the Province of Upper Canada, &c., &c., &c., in Council.

The Petition of Robert Randall, Humbly Sheweth :—

That as an unfavourable report of the Council has been made upon the petition for 20 the privilege of erecting Iron Works upon the waters of Niagara, and being loath to lose sight of the object, which is of so much moment to himself, and perhaps equally as interesting to the Province in General, he humbly prays a revision of the report, as it seems the prayer of his petition was rejected, by reason of his having set forth that a Grant of the Military Reserve from the Chippawa to the privilege of Messrs. McGill & Canby, was absolutely necessary.

Your petitioner, with diffidence, begs leave to suggest to the Honourable Council that he is apprehensive, they have not so fully understood him, and he flatters himself, on a revision, the objection laid down in the report may be removed ; he will with permission humbly state his reasons for having thus represented the business to the 30 Council. He thought then, as he now thinks, it dangerous that property should pass constantly up and down the river, unless a road could be permitted upon the bank, or at the water's edge, and sufficient railing in the water. Should the Council think with him, and be pleased to grant him these liberties, likewise that no privilege be



granted other person or persons, to erect works, so as to interfere with the common pass of the river, or otherwise be obstructed, or his works impeded thereby, in such case he should meet the pleasure of the Council on having the river laid open in common, etc.

Your Petitioner in duty bound will ever pray.

(Signed.) ROBERT RANDALL.

(*Endorsements.*)

No. 13.—Petition of Robert Randall, Recd. the 14th January, 1799.

January 14, 1799.—Mr. Randall may be assured that the King's Government  
10 will never, by any subsequent act, in any manner diminish the value of any prior  
grant, or act or favour, to any of His Majesty's subjects. The point of the exclusive  
possession of the river bank being out of the question, Mr. Randall may now bring  
forward a specific and final proposal, of what he proposed to do towards erecting the  
works, and a statement of the means he possesses, authenticated in the most satis-  
factory manner, and also a statement of his expectations from this Government. But  
he must distinctly understand that, it is expected that he will put all confidence in  
the Royal promise, as pledged by the President and Council, and that he must not  
expect to have any grant or lease of the spot in question, until he has completely  
complied with all his engagements.

20 Confirmed, P. R.

J. E.

Samuel Wilmot, of the Township of Clark and county of Durham, in the District  
of New-Castle, Esq., M.P.P., maketh oath and saith, that in or about the year of our  
Lord one thousand eight hundred or eighteen hundred and one, he saw at or near the  
Bridgewater place, being part of the military reserve between the mouth of the River  
Chippewa or Welland, and the great Falls of the River Niagara, on the said River in  
Upper Canada, a forge for making Bar Iron, erected by Robert Randall, claimant of the  
said Bridgewater place; and that this deponent did see the said forge in operation of  
making bar iron.

Sworn before me at York, Upper Canada, { Samuel Wilmot.  
30 This eighth day of January, 1824. }

(Sgd.) JOHN SMALL,

*M. of the Crown and J.P.*

Copy of the whole sent to the Government office July 28th, 1824.

Copy of the whole sent up to the Government office, under cover to Mr. Mudge,  
17th February, 1830.

Melelary Reserved

## No. 39.

1799

EXTRACTS FROM "A SHORT TOPOGRAPHICAL DESCRIPTION OF HIS MAJESTY'S PROVINCE OF UPPER CANADA," BY MR. D. W. SMITH, SURVEYOR-GENERAL,\* *RE NIAGARA RIVER AND YONGE STREET, AS MILITARY COMMUNICATIONS.*

"The River Niagara affords a noble harbour from its mouth to Queenstown, about seven miles up, for vessels of any size. \* \* \* There is a good road from Newark along the bank of the River Niagara to Fort Erie, passing through Queenstown and Fort Welland, formerly called Chippewa. Queenstown, or the 10 lower landing, (where there are huts for a regiment) is at one end of the carrying place, as Fort Welland is at the other. When the wind serves, vessels run from Newark to Queenstown, and unload their cargoes, receiving packs of peltries in return, for the Lower Canada merchants. Fifty waggons have passed this carrying place in the course of a day. At Fort Welland and Erie are Block-houses, and detachments of troops from Fort George. The merchandize is transported in boats between the two places.

"There is a stage runs from Newark to Fort Welland.

"We shall say little of the Falls of Niagara, (of which so many persons have written) \* \* \* On the avenues to it are good mills. \* \* \* 20 Above the Falls, near the upper mills, is a curious spring, the air or vapour of which catches fire. \* \* \* \* \* \*

"The saw-logs are conveyed to this mill in a very remarkable manner: they are cut upon the banks of the River Welland, and floated down to its mouth, where there is a reservoir made to contain them by a chain of hogpens. From hence it is very dangerous to go in a boat to the mills, on account of the great rapid, and the probability of being sucked into the vast vortex of the Falls: To avoid this, small poles have been fixed together, from the reservoir to the mill, (upwards of a mile) and floating about the distance of eighteen or twenty feet from the shore; they are kept off the shore in their places by poles projecting from the shore; and thus the 30 chain of poles, rising and falling with the waters, and always floating on the surface, make a kind of canal, into which the logs are launched one by one, and so carried from the reservoir to the mill. \* \* \* \* \*

"Fort Erie is situated at the eastern extremity of Lake Erie, where its waters narrow into the Niagara River. There is a small old fort here, with a good new

\* A short topographical description of His Majesty's Province of Upper Canada, in North America. To which is attached a Provincial Gazetteer.

By Mr. D. W. SMITH, Surveyor-General of Upper Canada.

(LONDON : FADEN, 1799.)



Block-house. A company of soldiers are quartered here, as there are also at Fort Welland, for the purposes of transporting the public stores. \* \* \*

"The new fort is projected on a small height, in the rear of the present garrison.

(pp. 30-33.)

"Yonge Street is the direct communication from York to Lake Simcoe, opened during the administration of H. E. Maj. Gen. Lieut.-Governor Simcoe, who having visited Lake Huron by Lake Aux Claires (formerly also called Ouentaronk, or Sinion, and now named Lake Simcoe) discovered the harbour of Penetanguishene, (now Gloucester) to be fit for shipping, resolved on improving the communication from 10 Lake Ontario to Lake Huron by this short route, thereby avoiding the circuitous passage of Lake Erie.

"This street has been opened in a direct line, and the road made by the troops of H. E.'s corps. It is thirty miles from York to Holland's River at the Pine Fort called Gwillimbury, where the road ends; from thence you descend into Lake Simcoe, and having passed it, there are two passages into Lake Huron; the one by the River Severn, which conveys the waters of Lake Simcoe into Gloucester Bay; the other by a small portage, a continuation of Yonge Street, to a small lake, which also runs into Gloucester Bay.

"This communication affords many advantages. Merchandise from Montreal to 20 Michilimackinac may be sent this way at ten or fifteen pounds less expense per ton than by the route of the Grand or Ottawa Rivers, and the merchandise from New York, to be sent up the North and Mohawk Rivers for the North West trade, finding its way into Lake Ontario at Oswego (Fort Ontario), the advantage will certainly be felt of transporting goods from Oswego to York, and from thence across Yonge Street, and down the waters of Lake Simcoe into Lake Huron, in preference to sending it by Lake Erie."

(pp. 153-5).

## No. 40.

### PETITION OF MESSRS. BURTON & McCULLOCH

30 To HIS EXCELLENCY PETER HUNTER, ESQ., LIEUTENANT-GOVERNOR OF UPPER CANADA AND GENERAL, COMMANDER-IN-CHIEF, OF HIS MAJESTY'S FORCES IN UPPER AND LOWER CANADA.

The Memorial of Nathaniel Burton, and James Maitland McCulloch, of the City of Montreal and Province of Lower Canada, Merchants and Co-Partners:

MOST HUMBLY SHEWETH:

That some time ago a lease for a term of years of a tract of land, part of the Military Reserve lying on the River Niagara, between the Falls and Chippewa, about



half a mile below the latter place, having thereon a mill seat of fourteen feet, six inches, head and fall, was granted by his Excellency, John Graves Simcoe, Esq., late Lieut.-Gov'r of the said Province of Upper Canada, to Mr. Canby and Mr. McGill, as joint tenants thereof, with a promise that, in case the said grantees should, at any time thereafter, erect any mills on their said grant, no lease should ever be given to the remainder of the said Military Reserve, to wit, that part lying between Chippewa and the head of said grant, that should, in any wise, be prejudicial or injurious to the said grantees. His Excellency also declaring, at the same time, that from its contiguity to the fort at Chippewa, it might, at some future day, be wanted for the purposes of Government, therefore he thought it expedient, not to include the same in the said grant, which otherwise would then have been done.

That the said Grantees of the said lease, after having at great expense in erecting mills on their grant and improving the property, disposed of the same, and which is now chiefly in the possession of your memorialists, who, under confidence of the promises of His Excellency Lt.-Gov'r Simcoe, and a persuasion that the grant would remain in the best situation in the Province for mills, have added to the original expenditure thereon, a sum of six thousand pounds govt. currency.

That your memorialists have lately learnt, that an application by petition has been made to your Excellency, for a lease of the remainder of the said Military Reserve, with an intention to erect mills thereon.

That from the situation of the remainder of the said tract, it appearing by survey to have only a current of two feet and one inch head and fall, can never be of any value to its possessors, and should waterworks be erected thereon, as they will entirely intercept the navigation to the mills of your memorialists, and others of much consequence situated below them on the said River, it will diminish ten times the value of the situation belonging to your Memorialists, that it ever can give to the other, which would be benefiting one individual, at ten times the loss of that benefit to another, or in another point of view, which is a matter of much moment in a new country, that can boast of few good situations for mills, would be to grind 100 bushels of wheat and saw 100 boards in a day, with mills that would prevent others that have such undesirable advantages, from situations from manufacturing and sawing one thousand. Wherefor, and in consideration of the premises, your memorialists humbly pray that a lease of the remainder of the said Military Reserve, may not be granted, until they have sufficient time to lay before your Excellency a draft of the said River, and produce such proofs of the injury, they and the County would sustain, by the said situations being let to the said applicants, as may give a just idea of the case, and determine your Excellency to act as much in favor of your memorialists, as the good of the Province, and the truths they will hereafter advance may direct; and as in duty bound your Memorialists will ever pray:

40

Montreal 29th Sept., 1800.

36

NA'L BURTON,  
J. M. McCULLOCH.



**No. 41.**

DESCRIPTION OF ROAD EXTENDING FROM THE TOWNSHIP LINE  
BETWEEN NIAGARA AND STAMFORD TO THE MOUTH OF THE  
RIVER WELLAND.

## ROAD FROM THE TOWNSHIP LINE BETWEEN STAMFORD AND NIAGARA.

Beginning at said Line above Daniel Rosse's, then running on the road as now used, passing James Cooper on the right, and also Coonrad Deshemer and Widow Fice, thence running on the used road, within thirty chains of intersecting the concession line at the south course thirty-one degrees, which intersection is opposite of 10 the Presbyterian Meeting-house, on Mount Dorchester, opposite to Mr. John Rowes; therefrom running from said used road, beginning thirty chains below said Meeting-house on said course, running south thirty-one degrees west thirty-one chains, where it intersects the concession line opposite to said Meeting-house; thence south on said Concession Line eight chains above the house of Jacob Killmon's, where it again comes into the old used road, and from thence following said used road, passing John Rulby, Esquire, Samuel Pew, Lanty Shannon on the right, and William Forsyth on the left, Christopher Buchner on the right, Charles Wilson on the left; from thence following the top of the Bank of Niagara River to the mouth of the River Welland, which road, was, on the fourteenth day of September, 1802, laid out and established 20 as and for a public road, and for the public benefit by John Rully and John McKerlie, Esquires, two of His Majesty's Commissioners in the County of Lincoln, in the Province of Upper Canada, and the same day delivered in and entered for record and recorded this 5th day of March, 1803, by me.

EZEKIEL WOODRUFF, *Town Clerk.*

**No. 42.**

LICENSE FROM PETER HUNTER, LIEUTENANT-GENERAL COMMANDING  
HIS MAJESTY'S FORCES IN UPPER AND LOWER CANADA,  
TO ISAAC SWAYZE.

9th May, 1804.

30 BY PETER HUNTER, ESQUIRE, LIEUTENANT-GENERAL COMMANDING HIS MAJESTY'S  
FORCES IN UPPER AND LOWER CANADA, &c., &c.

I do hereby authorize and permit Isaac Swayze, of the Township of Niagara, in the County of Lincoln, and in the District of Niagara, Esquire, to take possession of all that Lot, Piece or Parcel of Land (being part of the Land reserved by His Majesty for Military purposes), situate and being, in the Township of Stamford, in

Peter Hunter - Lt Govr of Upper Canadd  
17 Augt 1799 to 10 Sept 1805

the County and District aforesaid, commencing at the north-east angle of the land occupied by Martha and John Burch, thence north forty-two degrees west, one chain to the River Niagara, thence down the stream along the bank of the river to a small cedar tree, standing about two chains to the southward of the Table Rock, thence west one chain, thence southerly parallel to water mark at the distance of one chain until it meets the lands occupied by Timothy Skinner and the said Martha and John Burch, being the place of beginning, containing by admeasurement five acres more or less, together with a small island in front of the said lands hereinbefore described, containing by admeasurement seven acres or less, subject, nevertheless, to the Pro-  
10 visoes and conditions hereinafter contained and expressed, that is to say:—

FIRST On condition that it shall, and may be lawful, to and for His Majesty, his Heirs and Successors, and to and for the Commander-in-Chief of His Majesty's Forces, and to and for the Officer Commanding His Majesty's Forces in Upper and Lower Canada, and to and for the Officer Commanding the said Forces in Upper Canada for the time being, and to and for either of them, to determine and make void this present permission to occupy during pleasure, the said lot, piece or parcel of land, and also the said island above described, at any time hereafter, whenever he or they shall think fit so to do, without any compensation or indemnification to the said Isaac Swayze, or to any other person or persons whosoever, for any loss, injury or damage  
20 which he the said Isaac Swayze, or any other person or persons whosoever, may thereby sustain.

SECONDLY. On this further condition that it shall and may be lawful to and for His Majesty, his Heirs and Successors, and to and for his and their Officers, Soldiers and Servants, at any time hereafter, by Order of the Commander-in-Chief of His Majesty's Forces, or by Order of the Officer Commanding His Majesty's Forces in Upper and Lower Canada, or by Order of the Officer Commanding the said Forces in Upper Canada, for the time being, or by Order of the Officer of His Majesty's Corps of Royal Engineers Commanding in the said Province of Upper Canada for the time being, to enter upon the said lot, piece or parcel of land and island, which  
30 the said Isaac Swayze is hereby permitted to occupy during pleasure; or upon any part thereof, and to take down and from the said lot, piece and parcel of land, or from any part thereof, to remove any dwelling house, store or other buildings on the said lot, piece or parcel of land, or any part thereof erected, and to remove any goods or chattels on the said lot, piece and parcel of and or any part thereof, or in any such dwelling house, store or other building found or being; and that His Majesty, his heirs and successors, or any other person or persons whosoever shall not be liable or responsible to the said Isaac Swayze, or to any other person or persons whosoever, for any loss, injury or damage which he, or they, shall or may, in such case sustain.

*Together with a small Island off Seven Islands*

THIRDLY. On this further condition, that the said Isaac Swayze shall not erect, on the said lot, piece or parcel of land and island which the said Isaac Swayze is hereby permitted to occupy, during pleasure, or any part thereof, at any time or times hereafter, any dwelling house, storeor other building whatsoever, of stone or brick, or any other materials, wood only excepted, and that if any dwelling house or store or other building of stone or brick, or of any other materials except wood, shall at any time be erected on the said lot, piece and parcel of land, or any part thereof, then and in such case this present permission, and every clause and article thereof, shall from thenceforth cease and determine, and be absolutely and entirely null and void.

AND LASTLY, on this further condition, that the said Isaac Swayze or any person whosoever shall not assign this permission to occupy the said lot, piece or parcel of land above described to any person or persons whosoever, and if any such assignment shall be made by the said Isaac Swayze, or by any other person in his Right, or on his behalf, that then and in such case, such assignment and this permission to occupy during pleasure the said lot, piece and parcel of land and small Island above described, and every clause and article thereof, shall from thenceforth cease and determiné, and be absolutely and entirely null and void.

Given under my hand at York, in the Province of Upper Canada, this ninth 20 day of May, in the year of Our Lord, one thousand eight hundred and four, and in the forty-fourth year of His Majesty's reign.

P. HUNTER, *Lt. Gen. C.*

By Order of the Lieutenant-General.

JAMES GREEN, *Mil'y Sec'y.*

I, the said Isaac Swayze, above named, do hereby accept the above written permission to occupy during pleasure, the said lot, piece and parcel of land and small island above described, upon and subject to the several provisoos and conditions above written, and each and every.

IN WITNESS WHEREOF, I have hereunto set my hand the                      day  
30 of                      , in the year of Our Lord, one thousand eight hundred and four, and  
in the forty-fourth year of His Majesty's reign.

Signed in the presence of

Copy of this left in Executive Council Office, York, Feb., 1833, along with  
Wm. Forsyth's Petition.



**No. 43.**

## PROCEEDINGS IN COUNCIL RESPECTING DUNDAS STREET AS A MILITARY COMMUNICATION.

COUNCIL CHAMBER AT YORK, 20th June, 1806.

## PRESENT:

The Honourable Peter Russell, Presiding Councillor.

"           Æneas Shaw..

"           Thomas Scott.

The Committee was pleased to make a further Report on His Honour the President's reference of the 18th instant, respecting the land lately purchased from the Mississagua Indians, between Etobicoke and the head of Lake Ontario, which had been read in Council on the 18th instant, and also on the 19th instant, which report is as follows:—

To His Honour ALEXANDER GRANT, Esquire, President, Administering the Government of the Province of Upper Canada, &c., &c.

MAY IT PLEASE YOUR HONOUR,

After having recommended a removal of the reserves from each side of the Dundas Street Road, in order to facilitate the opening of that great Military communication between the seat of Government and the parts of the Province to the westward of it, to which the Committee was encouraged, by the perusal of an extract from Mr. Dundas's letter of the 16th March, 1794, in answer to Lieutenant-Governor Simcoe's letter on the subject, dated 16th September, 1793; the Committee now proceeds respectfully to report, that it is of opinion the population and good of this Province may be best effectuated, by requiring the grantees of the lands in the three townships of the Mississagua Tract, which have been lately purchased and surveyed, to sign the conditions of settlement expressed in the endorsed paper, before locations are given them; and though Your Honour has not called upon us to state our opinion respecting the mode to be adopted, for giving the lots in that tract to the numerous applicants now waiting to be located thereon, the Committee takes the liberty of suggesting that it will contribute greatly to His Majesty's Service, if a settlement is, in the first instance, secured for the lots on each side of the Dundas Road passing through those townships, by throwing into some covered vessel a parcel of rolled up tickets, equal to the number of lots thereon, whereon shall be marked the number, concession and township; and let the applicants take their chance, by drawing each a single ticket, as he presents himself, and when this principal object shall be obtained, that the other disposable lots may be drawn for, in like manner, or disposed of in such way, as shall appear best to Your Honour's wisdom.

Which is humbly submitted.

PETER RUSSELL, P.C.



## No. 44.

PETITION FROM THOMAS CLARK TO COLONEL BOWES, COMMANDING, ETC.

To Colonel BERNARD FORD BOWES, Commanding His Majesty's Forces in Upper and Lower Canada, &c., &c.

The Memorial of Thomas Clark, of Niagara, in Upper Canada, merchant,  
HUMBLY SHEWETH, That your memorialist is desirous of obtaining from Government, and prays that you will be pleased to grant him, a permission to occupy two parcels of the Military Reserve lands in the Township of Niagara and 10 Stamford, in the County of Lincoln and Province of Upper Canada.

The one being that part of the Reserve at Queenston which lays Westward of the portage road leading to Chippewa, and between lots No. 3 and 4, in the Township of Niagara, for the purpose of a pasture field. The other, the chain upon the Niagara River, in the township of Stamford, commencing at the upper end of the tract, leased to McGill & Canby, and running up stream to the Government Reserve at Chippewa, this for the purpose of erecting a mill; upon such terms, as permissions are in general granted to occupy Military Reserves, or upon such terms, as you in your wisdom may think fit.

And your memorialist, as in duty bound, will ever pray.

20

QUEBEC, August 21st, 1806.

THOMAS CLARK.

## No. 45.

PROCEEDINGS OF COUNCIL UPON THE PETITION OF SILAS CARTER.

COUNCIL CHAMBER AT YORK,

TUESDAY, 2nd December, 1806.

PRESENT:

The Honourable Thomas Scott, Chief Justice, Chairman.

" Peter Russell.

" John McGill.

30 The Committee took into consideration the following petitions referred to the executive Council : \* \* \*

SILAS CARTER:—Praying to be authorized to take possession of so much of the chain of reservation, lying on the Fort Erie Rapids, as may be necessary to erect a Grist Mill thereon, for which purpose a grant or lease thereof was given, many years ago, to a William Dunbar, but who has not erected a mill.

See as to the Mile at Fort Erie  
at page 27 in 1786.

See the Lotte granted in 1817 at  
page 122

and the administration of  
1819 at 1817 at page 123

See Fort Erie map

## SURVEYOR-GENERAL'S REPORT.

To His Excellency FRANCIS GORE, Esquire, Lieutenant-Governor of the Province of Upper Canada in Council.

MAY IT PLEASE YOUR EXCELLENCY,

In obedience to your Excellency's order of reference to me to report upon a petition of Silas Carter.

I respectfully inform your Excellency that on the 18th of August, 1795, so much of Lot No. one, first concession, Fort Erie (Now Bertie), so "far as relates to the mill and site" was ordered for William Dunbar, but it does not appear that anything further had been done therein than Lodging the aforesaid order in this office.

I am also to inform your Excellency that there is a Military reservation of one chain in breadth on the River Niagara, extending the whole length of this Township on the said river, and that the mill site prayed for, is situated on a part of the aforesaid reservation.

All which is humbly submitted to your Excellency's wisdom.

C. B. WYATT,

*Surveyor-General.*

SURVEYOR-GENERAL'S OFFICE,

2nd December, 1806.

20 The land prayed for appearing by the Surveyor-General's report to be part of the military reserve, the prayer of the petitioner cannot be recommended.

## No. 46.

REPORT OF CAPTAIN HENRY VIGOUREUX, WITH REFERENCE TO ERECTION OF MILLS ON RESERVATION BELOW CHIPPEWA CREEK (ATTACHED TO THE ORIGINAL OF EXHIBIT NO. 47).

7th April, 1807.

Application having been made to me for my opinion, whether or not, the granting of a lease of part of the Chain of Reservation below the Chippewa Creek, and for the erection of mills, would be prejudicial to His Majesty's service, I have no hesitation in saying that it will not, as the situation in question will not, in all probability, be ever wanted for any military purpose.

HENRY VIGOUREUX,  
*Captain Royal Engineers.*

Fort Erie, 7th April, 1807.

The Patent in this case is set out at  
page 122 - 123 - and Ld<sup>r</sup> h<sup>o</sup> Broken  
Front does not extend to the River.

## No. 47.

### PETITION OF MESSRS. MACKLIN, FANNING & HARDISON, AND PROCEEDINGS THEREON.

To HIS EXCELLENCY FRANCIS GORE, Esq., LIEUTENANT-GOVERNOR OF THE PROVINCE OF  
UPPER CANADA, &c., &c., &c., IN COUNCIL.

*W*  
*S*  
*X*  
The Petition of James Macklem, John Fanning and Benjamin Hardison,  
Humbly sheweth.

That your petitioners, about four years ago, presented to Your Excellency in  
Council, a petition praying for a lease of a small piece of land for the erection of mills  
10 on the Niagara river, bounded by the Bridgewater grant on the north, and by the  
Chippewa Creek on the south, extending one chain back from the said river, upon  
which petition, Your Excellency in Council, was pleased to order a survey and report  
to be made of the lands prayed for. That such survey and report was accordingly  
made, but that the same cannot now be found. Your petitioners therefore pray that  
Your Excellency in Council, may be pleased to take their case into consideration, and  
make such order thereon, as in your wisdom may appear meet.

And your petitioners as in duty bound will ever pray.

JOHN FANNING, for self  
&  
JAMES MACKLIN  
&  
BENJAMIN HARDISON.

A true copy.

JOHN SMALL,

*Clerk of the Executive Council.*

York 7th May, 1811.

### ENDORSEMENTS ON THE FOREGOING.

Copy.

7th May 1811. The petition of Messrs. Fanning, Macklin and Hardison.

30 Recd. from Lt.-Govs. Office 7th May 1811.

J. SMALL, C.E.C.

Lieutenant-Governor's Office, 7th May 1811.

Referred to the Executive Council by order of the Lieutenant-Governor, with  
Captn. Vigoureux's letter of 7th April 1807 annexed.

WM. STANTON,  
*Acting Secretary.*



## No. 48.

REPORT OF MESSRS. CHIEWETT AND RIDOUT TO MR. HALTON, SECRETARY TO THE LIEUTENANT-GOVERNOR, UPON THE PETITION ANNEXED OF MR. JOHN BURCH, WITH THE ENCLOSURE, AND NOTE OF THE PROCEEDINGS OF COUNCIL, AND OF LIEUTENANT-GOVERNOR GORE THEREON ENDORSED.

SURVEYOR-GENERAL'S OFFICE,

YORK, 12th September, 1809.

*ante p. 64 ante p. 18*  
10 SIR,—In obedience to your verbal order of reference to us, respecting a letter from John Burch, of the 4th instant, we have the honour to lay before you :

No. 1. An Extract from the Minutes of the Land Board for the District of Nassua, dated Niagara, 3rd May, 1791, by which it will be perceived that the late John Burch, father to the aforesaid John Burch, was one of the Board who ordered a chain to be reserved for a Road along the bank of the Niagara River, from the Landing to the Chippeway Creek.

No. 2. An Extract of a letter from Lieutenant Pilkington, of the Royal Engineers, to the late Surveyor-General, Mr. Smith, stating that he never possessed any direction relative to the aforesaid reservation by the Land Board.

20 No. 3. A description of the land (alluded to in Mr. Burch's letter) by the late Surveyor-General, Mr. Smith, wherein it will appear that the land covered by the Patent to his father in Stamford amounts to 770 acres, of which 200 acres have been reserved; and therefore the amount allowed to the late John Burch, Esq., in the said description, is only 570 acres, but it should have been 614 acres, consequently Mr. Burch is short of his complement 44 acres, viz. :—

	Acres.
Lots No. 43, 56, 191, 192 and 193 in Stamford.....	500
Lot No. 223, a transfer from A. Miller do .....	70
Lot 224, which is positively included under the said description No. 3 to the late John Burch in his own right, but has not been added to the latter part of the description, 370 acres, making the same 414 acres .....	44
Acres.....	614

There are only two methods or modes of rectifying this error: first, by determining the quantity of land on the ground in the said Reserve, and then for Mr. Burch to surrender his patent, and to have a new grant of the quantity that he ought to receive in that situation; for it is certainly most preposterous that any reservation of the Crown should be included under a patent to an individual.

The Chancellor in his judgment of this  
letter says - references first to Ex 47

with this (Ex 47) contrast the letter of Chevallier  
and the draft acting Surveyor General on  
12 Sept 1809 to the Governor's Secretary  
relating to the other end of the chain in  
Stafford and Niagara, setting forth by  
reference to the documents therein mentioned  
that the chain along the river was reserved  
for a road and that as being a reservation  
of the crown it was necessary a reservation  
should be included in a patent to an  
individual

Second, that of granting Mr. John Burch the 44 acres of land, which is short of the complement to his late father elsewhere.

With Mr. Burch's letter.

We have the honour to be, with the greatest respect, Sir,

Your most obedient humble servants,

CHEWETT & RIDOUT,

*Acting Surveyor-General.*

WILLIAM HALTON, Esq.,

Secy. to His Excellency The Lieutenant-Governor, &c., &c., &c.

10 (1.) Extract from the Minutes of the Land Board of the District of Nassau :—

NIAGARA, 3rd May, 1791.

PRESENT :

R. Hamilton, John Burch, John Warren, Robert Kerr, John McNabb.

The Board having observed that the intention of the Government in keeping roads along the River, from the landing to Chippeway Creek, has not been attended to by the inhabitants occupying those lands, and who cannot be ignorant of a chain being left by the Surveyors for that purpose ; the Board order that as soon as the present crops are put in, the people do then move their fences, and open the road to the breadth of a chain, of which the clerk is directed to give them notice.

20 Truly extracted.

CHEWETT & RIDOUT,

*Acting Surveyor-General.*

SURVEYOR-GENERAL'S OFFICE,

YORK, 12th Sept., 1809.

(2.) Extract of a letter from Lieutenant Pilkington of the Royal Engineers, dated Niagara, 2nd May, 1796 :—

" I have never possessed any direction relative to a reservation on the banks of " the river, between the Landing and the Chippeway—I recollect the Land Board " being furnished with a suggestion of Colonel Mann's for that purpose, with a view " of preserving a picturesque feature of the country—but I do not conceive with an  
30 " idea of precluding the occupation of any position, whereon a work of utility might " be established."

I am, dear sir,

Yours very faithfully,

ROBT. PILKINGTON.

To D. W. SMITH, Esq.,

Surveyor General.

SURVEYOR-GENERAL'S OFFICE, 12th September, 1802.

Truly extracted.

CHEWETT & RIDOUT,

*Acting Surveyor-General.*



## (3.) John Burch—Stamford.

Commencing at the south-east angle of lot No. 27, thence west 50 chains, thence south 40 chains, thence east 50 chains, thence north 40 chains to the place of beginning, being the lots No. 43 & 56, containing 200 acres.

Also commencing at the distance of one chain from Niagara River, at a post marked No. 191, thence following the several windings of the river, against the stream and at the distance always of one chain from the river as aforesaid, to the mouth of the River Welland, thence up the north bank of the River Welland to within one chain of the south east angle of Lot No. 222, (being the third lot on said river), thence north to the south boundary of Lot No. 193, thence west to within one chain of lot No. 194, and thence north to the place of beginning, within one chain of Niagara River, being the Lots No. 191, 192, 193, 223 & 224, with two broken lots adjoining to the lots No. 191 & 192, reserving, within the said lots, a tract beginning at the south-west angle of the ground reserved for Government above the bridge over the river Welland, on the North Bank, and at the south-west angle of the picketing around the King's storehouse and Wharf, thence along the boundary of the said Land reserved for Government, parallel nearly to Mr. Burch's Eastern Fence of his garden, 900 feet, more or less, from thence at right angles thereto easterly to Niagara River and from thence according to the several courses of Niagara River and the river Welland, against the stream, to the place of beginning.

These last mentioned lots contain about 370 acres, with an allowance for highways, exclusive of the above military reserve—and altogether about 500 acres, for which 71 acres and  $\frac{3}{4}$  are reserved as per general specifications.

No. 1368.

Niagara 19th August 1796.

D. W. SMITH,

*Acting Surveyor-General.*

(A true copy.)

CHEWETT &amp; RIDOUT,

*Acting Surveyor-General.*

SURVEYOR-GENERAL'S OFFICE, YORK, 12th September, 1809.

To His Excellency Francis Gore, Esq., Lieutenant-Governor of the Province of Upper Canada, &c., &c., &c., in Council.

The petition of John Burch, Son and Heir at Law of the late John Burch, Esq., of the Township of Stamford,

HUMBLY SHEWETH:

That your petitioner's father, the late John Burch, at an early part of the American war, left his habitation and a large landed estate in the then Province of New York, and joined His Majesty's Standard at Niagara.

At the close of the war when the waste lands of the Crown in this Province were to be granted, and to encourage and promote the settlement thereof was con-



sidered meritorious, your Petitioner's father, under and by the sanction of the ruling authority made his location at the mouth of the Chippewa Creek in the Township of Stamford, which was then the most remote part of the settlement, and expended large sums in clearing, building and otherwise improving the place, thereby encouraging others to follow the example and extend the settlement farther along the River and up the Creek.

When a Land Board was established by Commission to regulate the settlement and after due investigation to give certificates to claimants, your petitioner's father obtained the certificates in due form for his possessions, which certificates have ever 10 since been made a rule of decision between one individual and another in all disputed claims, and were not only considered a pledge of the truth of the Government but actually vested the possessor with the right of freehold by an Act of the British Parliament.

Under these considerations your Petitioner's father, freely, and with well grounded confidence, expended his money and labour to improve the lands which he possessed without molestation until the about the year 1789 or 90, when the Garrison Engineer Lieut. Humphries, reported a large portion of this improvement as a proper site to be reserved for military purposes, and your petitioner's father was obliged in consequence to throw down his fences to within a few feet of his door, cutting him off 20 from all communication with the public highway. Thus your Petitioner, by the single dash of a Subaltern Engineer's pen, has been deprived of the hard earnings of his father, of an inheritance which by the Provincial Constitution gave a right of freehold, and for which the faith of Government was pledged in support of his claim.

Your petitioner knowing the difficulty at this late period (under all circumstances), of granting the identical land in question, Humbly Prays Your Excellency will be pleased to take his case into his consideration, and grant him such portion of the waste lands of the Crown, as in equity and good conscience, will remunerate him for such deprivation, or such other quantity as to Your Excellency in his wisdom shall seem meet.

30 And your petitioner as in duty bound will ever pray.

JOHN BURCH.

LIEUTENANT-GOVERNOR'S OFFICE, 18th December, 1809.

Referred to the Executive Council by Order of the Lieutenant-Governor.

WM. HALTON.

Read in Council December 19th 1809. The Petitioner recommended for 200 acres under the regulations of 1796.

As the 200 acres are granted to compensate the Petitioner for Lands taken from him for the use of the Crown, the fees to be paid by the Crown.

F. GORE,  
Lieutenant-Governor.



**No. 49.**

ASSIGNMENT OF MCGILL & CANBY'S LEASE, SAMUEL STREET TO  
THOMAS CLARKE, DATED 4TH DECEMBER, 1815.

KNOW ALL MEN by these presents, that whereas His Excellency John Graves Simcoe, Esquire, late Lieutenant-Governor of the Province of Upper Canada did by lease bearing date the 20th day of July in the year One thousand seven hundred and ninety-six, lease, demise and to farm let, unto one John McGill, deceased, and one Benjamin Canby, all that parcel or piece of land containing by admeasurement four acres, hereinafter particularly described, and to hold the same to them and their assigns, for and during, and until the full end and term, of nine hundred and ninety-nine years from thence next ensuing ; and whereas by several assignments of the said term and lease, made under the authority of the same lease, Thomas Clarke, Esquire, of Stamford in the District of Niagara and Province aforesaid; merchant, and I, Samuel Street, Esquire, of the of the said Township of Stamford, Merchant, became lessees and possessed of the said tracts of land, for and during the residue yet to come and unexpired, of the said term : NOW KNOW YE, that I the said Samuel Street for and in consideration of the sum of One thousand pounds lawful money of the Province aforesaid, to me in hand well and truly paid by the said Thomas Clarke, at and before the ensealing and delivery of these presents, the receipt whereof is hereby fully acknowledged, and the said Thomas Clarke his heirs, executors and administrators, and every of them, therefrom acquitted and discharged, have granted, bargained, sold, assigned, transferred and set over unto the said Thomas Clarke his heirs, executors administrators and assigns, all and singular, the right, share, interest, claim or demand which by virtue of the said several assignments I the said Samuel Street or my heirs, executors, administrators or assigns might or could have in or to, all that certain piece, parcel or tract of land containing by admeasurement four acres, being a parallelogram on the waters edge of one chain in width, commencing half a quarter of a mile below a certain rapid and extending thence upwards a quarter and half quarter of a mile, which said four acres of land are situate, lying and being, on lands reserved for military purposes and amongst the same, whereon the said John McGill and Benjamin Canby erected a mill, lying between the falls of Niagara and the river Welland in the district aforesaid ; Together with all and every the waters, houses, mills, buildings and appurtenances thereunto belonging, or in any wise appertaining—and all the estate, right, title, interest, claim and demand whatsoever of me the said Samuel Street or my Heirs executors or administrators of, in, to, and out of the same ; together with all writings, leases and titles whatsoever relating to the same. TO HAVE AND TO HOLD the said parcel or tract of land or share therein, hereby assigned or intended so to be, with their, and every of their appurtenances, unto the said Thomas Clarke, his heirs, executors, administrators and assigns, for, and 40 during, the residue and remainder yet to come and unexpired of the said term.

Recd at  
Mact Government  
Simcoe on 20 July 1796  
Leased to Cunby & Leigell  
for 999 years

15 July 1794  
no 8 Cornell p 107  
22 Apr 1796  
Preston on 110  
10 Nov 94  
Lease by Simcoe  
for 21 years  
to be given up

IN WITNESS whereof I have hereunto set my hand and seal at Niagara Falls Mill, in the District aforesaid, this fourth day of December in the year of our Lord one thousand eight hundred and fifteen.

SAMUEL STREET. (SEAL)

Signed, sealed and delivered in presence of us

AND'W. T. KIRBY,  
COLIN MacNEILLEDY.

## No. 50.

LETTER FROM MR. WILLIAM HALTON, SECRETARY OF LIEUTENANT-  
10 GOVERNOR, TO MR. T. RIDOUT, SURVEYOR-GENERAL, DATED 1st  
JANUARY, 1816.

Lt.-GOVERNOR'S OFFICE, 1st January, 1816.

SIR,—In obedience to the commands of His Royal Highness the Prince Regent, I am directed by His Excellency the Lt.-Governor to desire that you will issue a description, in the name of the Hon'ble Thomas Clarke, for a chain of land extending from the Military Reserve at Chippewa down to the boundary of a lease granted to Isaac Swayze, which lease commences about half a mile above the Falls of Niagara and goes down to the Falls.

I have enclosed a survey of the chain of land for your guidance.

20 I have the honour to be, Sir,

Your most obedient humble servant,

WM. HALTON,

THOS. RIDOUT, Esq'r., Surveyor-General.

*Secretary.*

## No. 51.

GRANT TO THOMAS CLARKE, DATED 2ND JANUARY, 1816.

PROVINCE OF UPPER CANADA.

FRANCIS GORE, Lieutenant-Governor.

GEORGE THE THIRD, by the Grace of God, of the United Kingdom of Great Britain and Ireland, KING, Defender of the Faith.

30 To all to whom these Presents shall come—GREETING :

KNOW YE, that We, of Our Special Grace, certain Knowledge, and Mere Motion, have GIVEN and GRANTED, and by these Presents do Give and Grant

Grant to Thomas Clark  
2 January 1816

unto The Honourable Thomas Clarke, of the Township of Stamford, in the County of Lincoln, in the District of Niagara, Esquire, his Heirs and Assigns for ever, ALL that PARCEL or TRACT of LAND situate in the Township of Stamford, in the County of Lincoln, in the District of Niagara, in Our said Province, containing by admeasurement fourteen Acres and a-half, be the same more or less, being a chain of land extending from the Military reserve at Chippewa down to the boundary of a lease Granted to Isaac Swayze, which Lease commenced about half a-mile above the Falls of Niagara and goes down to the Falls.

10 Registered      } TOGETHER with all the Woods and Waters thereon lying and being,  
6th January,      } under the reservations, limitations and conditions hereinafter ex-  
1816.              } pressed ; which said fourteen acres and a-half, butted and bounded,  
                    } or may be otherwise known as follows, that is to say : Commencing  
on the River Niagara, at the Northerly angle of the Military reserve, on the West  
side of the Chippewa, then along the Western boundary Line of the said reserve  
South Twenty two degrees West, one chain ; then, always at the distance of one chain  
from the Niagara River, North thirty-four degrees thirty minutes West, three chains  
Eighty-four Links ; then North fifty-nine degrees West, two chains fifty-eight links ;  
then North twenty-four degrees West, two chains thirty-five links ; thence North  
20 forty degrees West, five chains thirty-one links ; then North fifty-nine degrees West,  
seventeen chains thirty-eight links ; then North sixty-nine degrees West, thirteen  
chains three links ; then North eighty-one degrees West, ten chains ; then South seventy-eight  
degrees West, seven chains thirty-seven links ; then South fifty-four degrees  
thirty minutes West, fourteen chains seventy-three links ; then South forty-two  
degrees West, eleven chains sixty-six links ; then South eighty-seven degrees thirty  
minutes West, ten chains ninety-seven links ; then North sixty-three degrees West,  
four chains thirty links ; then North eleven degrees thirty minutes West, six chains  
thirty-five links ; then North twelve degrees East, three chains fifty links ; then  
North thirty-nine degrees East, two chains thirty-four links ; then North thirty-six  
30 degrees East, seven chains ; then North twenty-nine degrees thirty minutes East,  
one chain ; then North two degrees East, three chains ; then North fifty-one degrees  
thirty minutes West, ten chains fifty-five links ; then North sixty-nine degrees thirty  
minutes West, four chains nine links ; then North sixty-four degrees West, four  
chains fifty links, more or less, to the eastern boundary of Isaac Swayze's Lease ; then  
along said boundary line one chain to the Niagara River ; then along the water's  
edge following the several windings and turnings thereof, against the stream, to the  
place of beginning.

TO HAVE AND TO HOLD the said Parcel and Tract of Land hereby given  
and granted to him the said Thomas Clarke, his Heirs and assigns for ever ; saving,  
40 nevertheless, to Us, Our Heirs and Successors, all Mines of Gold, Silver, tin, Lead,  
Iron and Coal that shall or may be hereafter found on any part of the said Parcel or



Tract of Land hereby given and granted as aforesaid; and saving and reserving to Us, Our Heirs and Successors, all White Pine Trees that shall or may now or hereafter grow, or be growing on any part of the said Parcel or Tract of Land hereby granted as aforesaid.

X

PROVIDED always that no part of the parcel or tract of Land hereby given and granted to the said Thomas Clarke and his heirs, be within any reservation heretofore made and marked for Us, Our Heirs and Successors, by our Surveyor-General of Woods, or his lawful Deputy, in which case this Our grant for such part of the Land hereby given and granted to the said Thomas Clarke and his heirs for ever, as aforesaid; and which shall, upon a survey thereof being made, be found within any such reservation, shall be null and void and of none effect, anything herein contained to the contrary notwithstanding. PROVIDED ALSO, that the said Thomas Clarke, his heirs or assigns, shall and do within three years erect and build, or cause to be erected and built, in and upon some part of the said parcel or tract of Land, a good and sufficient Dwelling House, he the said Thomas Clarke or his assigns not having built, or not being in his or their own right lawfully possessed of an house in our said Province, and be therein, or cause some person to be therein resident, for and during the space of one year thence next ensuing the building of the same. PROVIDED ALSO, that if at any time or times hereafter the land so hereby given and granted to the said Thomas Clarke and his heirs, shall come into the possession and tenure of any person or persons whomsoever, either by virtue of any deed of sale, conveyance, enfeoffment, or exchange; or by gift, inheritance, descent, devise or marriage, such person or persons shall within twelve months next after his, her or their entry into possession of the same, take the Oath prescribed by law before some one of the Magistrates of Our said Province, and a certificate of such Oath having been so taken shall cause to be recorded in the Secretary's Office of our said Province. IN DEFAULT of all or any of which conditions, limitations and restrictions, this said Grant and everything herein contained shall be, and we hereby declare the same to be null and void, to all intents and purposes whatsoever; and the land hereby granted, and every part and parcel thereof shall revert to and become vested in Us, Our Heirs and Successors, in like manner as if the same had never been granted; anything herein contained to the contrary in anywise notwithstanding.

AND WHEREAS, by an Act of the Parliament of Great Britain, passed in the thirty-first year of His Majesty's Reign, intituled: "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled: 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," it is declared "that no grant of Lands hereafter made shall be valid or effectual, unless the same shall contain a specification of the Lands to be allotted and appropriated solely to the maintenance of a Protestant Clergy within the said Pro-

Since  
+ his pursuant to instructions to Guru  
at page 86

vince, in respect to the Lands to be thereby granted : " NOW KNOW YE, that we have caused an allotment or appropriation of Two acres and one-seventh of half an acre to be made in a certain Lot, number Eight of the Clergy Lands for the County of Lincoln, which land being in a certain reserved Block in rear of the Townships of Flamboro' and Beverley.

GIVEN under the Great Seal of our Province of Upper Canada ; WITNESS, Our Trusty and Well-Beloved FRANCIS GORE, Esquire, Lieutenant-Governor of Our said Province, this Second day of January, in the year of Our Lord one thousand eight hundred and sixteen, and fifty-sixth of Our Reign.

10 By Command of His Excellency in Council,

F. G.

WM. JARVIS, *Secretary.*

Entered with the Auditor, 6th January, 1816,

JOHN McGILL, *Auditor-General.*

By order of His Excellency Lt.-Governor Gore, bearing  
date 1st January, 1816, in Obedience to the Command  
of His Royal Highness the Prince Regent. Regulations }  
dated upon the 6th July, 1804.

D'ARCY BOULTON,  
*Attorney-General.*

## NO. 52.

LETTER FROM MR. T. RIDOUT, SURVEYOR-GENERAL, TO MR. WILLIAM  
20 HALTON, SECRETARY TO LIEUTENANT-GOVERNOR, DATED 25TH  
JANUARY, 1816.

SURVEYOR-GENERAL'S OFFICE,

YORK, 25th January, 1816.

WM. HALTON, Esq.,

Secretary to His Excellency

The Lieut.-Governor.

SIR,—In obedience to the commands of His Excellency the Lieut.-Governor to me to report whether the late Grant to the Hon'ble Thomas Clarke, for a piece of land along the Niagara River between the Falls and Chippewa, embraces the site of 30 the Bridgewater Mills,

I most respectfully state to you, for the information of His Excellency that the said Grant to Mr. Clarke does appear to embrace the site of the said Mills according to a Memorandum given to the late Mr. White, Attorney-General, bearing date the 19th July, 1796, in favour of Canby & McGill in the words following :—" containing by admeasurement 4 acres, being a parallel. of 1 C. in width on the water's edge, commencing  $\frac{1}{2}$  a  $\frac{1}{2}$  of a mile below a certain Rapid, and extending thence upwards a  $\frac{1}{2}$  and  $\frac{1}{2}$  qr. of a mile."

I have the honour to be,

THOMAS RIDOUT,

*Surveyor-General.*



**No. 53.**

PETITION OF ROBERT RANDALL, DATED 30TH NOVEMBER, 1816, WITH AFFIDAVIT ATTACHED, SWORN 4TH DEC., 1816, WITH ENDORSEMENTS THEREON.

To His Excellency FRANCIS GORE, Esquire, Lieutenant-Governor of the Province of Upper Canada, &c., &c., &c., in Council.

The petition of Robert Randall, of the Township of Stamford, in the District of Niagara, Gentleman,

HUMBLY SHEWETH:

- 20 July 1796  
See Nov  
1816 for  
Particulars*
- 10 That His Excellency John Graves Simcoe, Esquire, late Lieutenant-Governor of the Province of Upper Canada aforesaid, by Indenture of Lease, bearing date at York, in the said Province, the Twentieth day of July, one thousand seven hundred and ninety-six, for the considerations therein mentioned, did grant, lease, let and to farm let unto John McGill and Benjamin Canby, their executors, administrators and assigns, all that piece or parcel of land containing by admeasurement four acres, being a parallelogram on the water's edge of one chain in width; commencing half a quarter of a mile below a certain rapid and extending thence upwards a quarter and half quarter of a mile, which said four acres of land are situate, lying and being on the lands reserved for military purposes, and amongst the same; whereon the said John McGill and Benjamin Canby erected a mill, lying between the Falls and the River Welland, in the County of Lincoln and Home District. TO HOLD the said four acres of land with all and singular the appurtenances (except as therein is excepted) unto the said John McGill and Benjamin Canby, their executors, administrators and assigns, from the date thereof unto the full end and term of nine hundred and ninety-nine years from thence next ensuing, and fully to be complete and ended, under the yearly rent of one shilling, to be paid to His Majesty's Receiver General of the Province for the time being on the twentieth day of July, as in and by the said in part recited Indenture of Lease, relation being thereunto had, may more fully and at large appear.
- 20 That by Indenture of Assignment, bearing date the seventh day of January, one thousand seven hundred and ninety-seven, made between the said John McGill and Benjamin Canby of the one part, and one Elija Phelps and one James Ramsey of the other part, they the said John McGill and Benjamin Canby did, for the considerations therein mentioned, assign and set over unto the said Elija Phelps and James Ramsey all and singular Letters Patent whatsoever, whereby they then had or claimed any title to the premises or any part thereof, and all their estate, right, title and interest of, in or to the same or any part thereof, to hold to the said Elija Phelps and James Ramsey, their executors, administrators and assigns, for and during the rest and residue of the said term, by the said Indenture of Lease granted, then to come and

sets forth Landly to 24  
Lease 20 July 1797  
for 999 years

Apprentice) Tax 1797  
Landly Mitchell apniced  
to Elijah Phelps and James  
Ramsay

There will be  
outwardly  
no right or wrong

unexpired, under the like yearly rent of one shilling, and so payable as aforesaid.

That by Indenture bearing date the twenty-fifth day of February, one thousand seven hundred and ninety-nine, and made between the said James Ramsey of the one part and your petitioner of the other part, after reciting as hereinbefore mentioned, it is witnessed that the said James Ramsey for the consideration of Nine hundred and eighty-three pounds, fourteen shillings and eight pence lawful money of Upper Canada aforesaid, did bargain, sell, assign, transfer and set over unto your petitioner, one equal undivided moiety of the said four acres of land and premises  
10 with the appurtenances, TO HOLD unto your petitioner, his executors, administrators and assigns, from the date thereof for all the rest and residue of the said term of nine hundred and ninety-nine years hereinbefore mentioned to have been granted by His Excellency the late Lieutenant-Governor Simcoe, paying the rent therein mentioned.

That your petitioner, shortly after the date of the last mentioned deed, erected very large mills and other buildings upon the said premises at a considerable expense, and continued in the full enjoyment of the same until the twentieth day of October, in the year one thousand eight hundred and two, when having the misfortune to be confined in prison in Montreal, the said Elija Phelps caused an action  
20 of ejectment to be instituted, for the purpose of acquiring possession of the whole of the premises; and caused the declaration to be served upon one James Durand, who was in possession of the said premises, as your petitioner's agent, and that the said James Durand, not having given notice to your petitioner of the said proceedings, the said Elija Phelps recovered judgment by default against the casual ejector, in the said action, and your petitioner was turned out of possession.

That sometime in the year one thousand eight hundred and fifteen, the Hon. Thomas Clark of Queenston in the District aforesaid, by means of some representations, the purport of which are to your petitioner at present totally unknown, obtained an order from His Royal Highness The Prince Regent, for a grant to him of  
30 the fee simple of the said premises.

That in the month of December, one thousand eight hundred and fifteen, a patent was issued to the said Thomas Clark for the said premises, without noticing the said Indenture of Lease from the late Lieutenant-Governor Simcoe, whereby your petitioner has been deprived of, not only the future benefit of the said lease, but also has sustained an immense injury, by having been kept out of possession of the mills and other buildings, which he has erected on the said premises, a reparation for which, he is advised, he cannot obtain, until the grant from the Crown to the said Thomas Clark has been cancelled, on account of the said lease from Lieutenant-Governor Simcoe having been issued under the Privy seal, and not under the Great  
40 Seal of the Province as is customary.

25 Feb 1799 - James Remond  
for \$83 - 14.8 Marquises  
sold to Robert Randall  
one hundred mostly to  
the White

20 Oct 1802 Phelps recovered his  
electricty - and Randall  
put out of paper from

1815 Thomas Clark got  
a Grant in fee simple  
without noticing the  
outstanding Lease from  
Governor Simcoe  
which was only under his Priv  
al

Your petitioner therefore humbly prays that Your Excellency in Council, will be pleased to take the peculiar circumstances of his case unto consideration; if it should be discovered that His Majesty has been prevailed upon to make an improvident grant to the said Thomas Clark of the said land and premises, that your Excellency will cause the said patent to be cancelled, and to afford your petitioner such other relief as to your Excellency may seem meet.

And your petitioner as in duty bound will ever pray.

R. RANDALL.

York, Nov. 30th, 1816.

10 Robert Randall, the petitioner named in the annexed petition, maketh oath and saith that he has seen and read the original lease mentioned in the said petition, and and that the recital, therein set forth, was taken from a deed also recited in the annexed petition from the therein within mentioned James Ramsey and his wife, to this deponent; and that the said recital of the said lease contains the substance and essential part thereof. And this deponent further saith, that he verily believes that the said lease is now in the possession, power or knowledge of Thomas Clark, Esquire, also mentioned in the annexed petition.

And this deponent further saith, that he has now in his possession a memo. of the title, under which the said Thos. Clark derives his claim to the said lease, in the 20 hand writing of William Dickson, Esq'r., Counsel to the said Thos. Clark, in which the said lease is relied upon as the basis of the title of the said Thomas Clark, prior to his obtaining the Government patent of the premises comprised in the said lease.

R. RANDALL.

York, December 4th, 1816.

SWORN before me at York this }  
4th day Decr., 1816. }

(Sgd) W. ALLAN.

(Endorsements).

No. 1. R. 11.

20 PETITION No. 11.

of

MR. ROBERT RANDALL.

Referred to the Council by His Excellency the Lieutenant-Governor's Message, dated March 7, 1817.

Reported upon 10th of the same month.

Entered in Land book J. pages 121 &

126.

Mis'l's.

40 1817.



## No. 54.

PROCEEDINGS IN COUNCIL, 8TH MARCH, 1817, UPON PETITION OF  
ROBERT RANDALL, AND REPORT OF COUNCIL THEREON, DATED  
10th MARCH, 1817, WITH ENDORSEMENTS.

COUNCIL CHAMBER, SATURDAY 8TH March, 1817.

PRESENT:

The Chief Justice, James Baby, Esquire,  
John McGill, Esquire, Samuel Smith, Esquire.  
Revd. Dr. John Strachan.

- 10 Read the petition of Robert Randall—No. 1.  
Read the answer thereto of Mr. Clark—No. 2.  
Read sundry papers and documents No. 3 to 12 inclusive.

Whereby it appears to the Board that a lease for twenty-one years of the land in question, was signed by John Graves Simcoe, Esquire, Colonel Commanding the Forces in Upper Canada, as part of the Lands Reserved for Military Purposes, to John McGill and Benjamin Canby, for a consideration of Five Shillings per annum, expressly reserving a liberty to the Officer Commanding to take possession.

20 Read a letter from Canby & McGill addressed to the said John Graves Simcoe, as Lieutenant-Governor in Council—praying for an extension of the lease, or a grant of the land, and indorsed in Lieutenant-Governor Simcoe's hand writing—Granted: Referr'd to the Attorney General for the mode of conveyance—not specifying which of the prayers was granted.

30 The original lease being deposited in the Council Office, and the indorsement on the petition entered on the Council books, there can be little doubt (as there is no record of any grant or lease under the Provincial seal) that a new lease was sealed by the Private Seal at Arms of Colonel Simcoe for nine hundred and ninety-nine years, as Certificates are produced from the Register Office of the District of Niagara, of the memorials of deeds referring to such a lease, and which, indeed has been seen and admitted by the Petitioner and Mr. Clark; and by the latter presumed to have been destroyed, among other papers, during the invasion by the enemy, when the Mills and Dwelling House on the premises were burned.

It appears also that the Petitioner contracted for the purchase of part of this lease from Benjamin Canby at an early day of 1795, but nothing was effected, and the renewed lease of 20th July, 1796, being mortgaged to Mr. Hamilton, for advances to Canby & McGill, they sold to Phelps and Ramsey, subject to such debt and Mortgage to Mr. Hamilton.

That the Petitioner Randall, on the 25th February, 1799, contracted with Ramsey for his half of the joint Estate, and received a Conveyance of that date in con-

as Colonel Commanding  
as Lieut Governor

sideration of Nine hundred and seventy-three pounds, fourteen shillings and eight Pence, secured by Randall's bond.

That shortly after, the petitioner contracted with Phelps for his Moiety of the Interest in the lease in consideration of Nine hundred and fifty-one pounds, five shillings to be paid by Randall, on which payment Phelps was to execute an assignment of the lease to him or to his appointment.

That the petitioner being in possession of the premises under these contracts, contracted with Burton & McCulloch, of Montreal, Merchants, to whom he was largely indebted, entering into a complex copartnership with that House, the basis 10 of which was; that the profits of the Bridgewater Mills were to be applied to the extinction of the debt to Phelps & Ramsey, no part of which was then paid.

That Phelps's solicitors, to receive payment, threatened a suit in ejectment, which was avoided by a transaction amongst all the parties whereby Burton & McCulloch assumed the debt to Phelps and Ramsey, and that in consideration thereof and exoneration of Randall, an assignment of the premises would be made direct from Phelps and Ramsey to McCulloch, by a joint conveyance, sinking the sale by Ramsey and the contract with Phelps, and leaving the arrangements of the house of Burton & McCulloch with their debtor Randall, to a distinct compact.

It is to be observed at this point, that the Petitioner denies all participation in, 20 consent to, or knowledge of this transaction of the 1st June, 1801—relying upon the gross absurdity of such a supposition, in the face of the formal conveyance of Ramsey to him, and the formal contract to the same effect by Phelps, both still in the Petitioner's possession.

To this strong argument, it is answered, that the transaction being mutually beneficial, it was to be presumed that all was in good faith; that the nature of the case supports the oral evidence of the transaction; that there is great reason to suppose, that all documents were intended to be delivered up and cancelled, as appears from the declaration of the Honble. William Dickson & Robert Nichol, Esquire, both present at the execution of the Conveyance, by the full consent and wish of the 30 Petitioner Randall, then present, although he denies all knowledge of it: Mr. Dickson conversant in the whole transaction, declaring, that he considered it a great relief to the petitioner.

This oral testimony of men of respectable stations and character in Society is not alone opposed to the denial of the Petitioner—of whose character it is needless to say more, than that it appears from the Document No. 12 that he is the identical Major Randall, who, in the Sessions of Congress of the United States, was Committed to Prison for Corrupt practices to induce the Members of that body to sanction a flagitious Land Speculation—exclusive, it is observed, of such respectable oral testimony, a Document of unsuspected character is produced, being an exemplification of

Randall having received  
Ramsay's money & made  
with ~~for~~ Phelps for his money  
Randall had not paid either  
Ramsay or Phelps

a memorial signed by the Petitioner R. Randall and Registered in the Registry of the Niagara District in which he refers, in terms, to the conveyance of Phelps & Ramsey to McCulloch, of which he now denies any knowledge.

Possessed of Phelps contract he has had recourse to a Court of Law for his remedy, and a jury will best appreciate his claim. In the meantime under the conveyance of Phelps & Ramsey, McCulloch conveyed the estate to Durand, the Agent of their creditors Colcleugh, Boyd & Read of London, and Durand conveyed to Thomas Clark, who has paid the purchase money to that house in London.

In the course of this inquiry, other circumstances appear on the files of the 10 Council Office which might affect the providence of the Grant to Mr. Clark, and have therefore received due consideration—it appears that this chain along the River was generally reserved either for Military Purposes or for Public accommodation for landing on the Beach, as the adjacent grants are bounded by it.

The four acres leased by Colonel Simcoe, and the whole chain from thence to the River Welland, are not obvious to either purpose; but the owner of the land in rear might complain of any change in the destination of this reserve which might affect the value of his tenure.

This owner, Hardison, had, in a joint application with others, solicited permission to erect mills in front of his land, between the Bridgewater Works and the River 20 Welland, upon which application it appeared from the Report of the Surveyor-General and the Engineer that this Reserve was useless, from the rapidity of the water, either for Military purposes or landing, except, as alleged by the lessee of the Bridgewater Mill, that it afforded a passage for saw-logs to the Mill—the interruption of which by any erection above it, would be a material injury. In this state of things Mr. Clark, holding the Bridgewater Works under a precarious tenure of a Military Lease, purchased from Hardison the tract of land bounded by this chain, and then applied for a grant of the whole.

W. D. P.

*10 March 1817.*  
REPORT to His Excellency Francis Gore, Esquire, Lieutenant-Governor of the  
30 Province of Upper Canada, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY:—

The Executive Council having under consideration the petition of Robert Randall referred by Your Excellency's Message of the 7th instant, decided first to enquire into that part of the petition which infers an improvidence in His Majesty's grant to the Honorable Thomas Clark, Esquire, of a chain of land on the rapid waters of the St. Lawrence between the River Welland and the Great Falls of Niagara, comprehending the four acres of land reserved for Military purposes heretofore leased by Colonel Simcoe, when Commanding the Forces in this Province, to Messieurs Canby & McGill, and have thereupon unanimously agreed to report to

See Chancellor's Judgment  
at page 37

Your Excellency its opinion that no improvidence attended the said grant, and that they cannot advise Your Excellency that the same ought to be cancelled to let in the Petitioner to a suit at Law to recover the premises under any interest legal or equitable, derived under the said lease to Canby & McGill:—And the Council takes leave to accompany this its Report, with the details of its proceedings and inferences on Your Excellency's Message of reference.

By Order,

WM. D. POWELL, C. J.

Council Chamber, 10th March, 1817.

10

(Endorsements.)

10th March, 1817.

Report of the Council on His Excellency the Lieutenant Governor's Message of Reference of the Petition of Robert Randall.

Accompanied by the documents referred to from No. 1 to 12 inclusive.

Entered in Land Book J., pages 156 to  
162.

20

## No. 55.

PROCEEDINGS IN COUNCIL RELATING TO THE OLD FRENCH FORT AT TORONTO, DATED 3<sup>RD</sup> JUNE, 1817.

At a Council held at the Government House at York, on Tuesday, the 3rd of June, 1817.

PRESENT:

His Excellency Lieutenant-Governor Gore.

The Honourable the Chief Justice.

" James Baby.

" John McGill.

30

" and Rev'd Dr. Strachan.

His Excellency was pleased to call the attention of the Council to the Reserve in the neighbourhood of York, the site of the old French Fort, part of which, it appears, although not allotted for location, was granted in the former absence of His Excellency, notwithstanding its obvious importance to the defences of this Post, and to the accommodation of the present Garrison:



And by the advice and consent of the Council, it is Ordered—that the remainder of that Reserve be dedicated to Military purposes, under the control of the Honourable Board of Ordnance, and that a copy of this order be transmitted to the Commander of the Forces in North America, and accompanying by a report and plan from the Surveyor-General, comprehending as well the military reserve East of the Garrison, as the land recommended to be reserved.

### No. 56.

LETTER FROM SIR J. C. SHERBROOKE, COMMANDER OF THE FORCES,  
TO HIS HONOUR ADMINISTRATOR S. SMITH, RESPECTING RESER-  
10 VATION OF LANDS AT PENETANGUISHENE FOR NAVAL AND  
MILITARY PURPOSES, DATED 20TH JANUARY, 1818.

QUEBEC, 20th January, 1818.

SIR.—It being the intention of His Majesty's Government to make a Dock Yard, and construct some works of defence at Penetanguishene, I do myself the honour of transmitting to Your Honour the enclosed sketch, upon which are enclosed in red lines the parts of Ground which are considered necessary for these objects; and I beg leave to request that you will have the goodness to give directions that these Lands may be reserved for Naval and Military purposes, in order that the views of His Majesty's Government may be carried into effect.

20

I have the honour, &c., &c., &c.,

J. C. SHERBROOKE.

His Honour

SAMUEL SMITH, Esq.,  
&c., &c., &c.

### No. 57.

ORDER IN COUNCIL RESPECTING THE RESERVATIONS REFERRED TO  
IN THE PRECEDING LETTER FROM SIR J. C. SHERBROOKE, DATED  
16TH APRIL, 1818.

At the Council Chamber at York, Thursday, 16th April, 1818.

PRESENT:

His Honour the Administrator.  
The Honourable Chief Justice Powell.  
The Honourable John McGill.  
The Honourable and Reverend Dr. Strachan.

His Honour, the Administrator, submitted to the Board that the locations made by Mr. Talbot, on the Road through the School Townships, under special authority



from the Lieutenant-Governor-in-Council, appear in the several Returns made to the Surveyor-General far to exceed in number the Returns of Fees paid to the Receiver-General, and that the Surveying Department is under embarrassment from the indefinite character of the settlers located until confirmed by payment of the Fees and warrant from the Council Office. His Honour required the advice of Council how to proceed to ascertain the character of the settlers and the arrear of fees, as well as the actual location and progress of settlement duty. Whereupon the Board having due consideration of the several Returns of Location by Mr. Talbot, and receipt of fees by the Receiver-General, find that eight hundred and four persons have been 10 located whose fees amount to four thousand three hundred and twenty-three pounds fifteen shillings and five pence sterling, not received.

In the course of inquiry there is reason also to believe that persons have been located without authority, by Mr. Talbot, on lands already under grant, to the great inconvenience of the individual as well as reproach of the Government, and it is thought advisable, in order to obtain correct information on the whole subject, and enable the Government to act, that a Special Commission be sent by His Honour to visit the actual locations made under authority of Lieutenant-Colonel Talbot, to ascertain the progress in settlement, duty of each settler, his relative character as a subject, natural born or otherwise, if he has received other grants of land from the 20 Crown in this Province, if he has paid the fees for his location, or any part, and what, and to whom, if he holds direct from the location by Mr. Talbot, or through any other first located.

To call upon all such as have not taken the Oath of Allegiance, to assign the cause; or all those who have not paid the fees to pay the same to the proper officer within a time to be limited, with an assurance that failing so to do the lot they occupy, with their improvements, will be considered as open to location to others; and to collect all such information on the subject of those settlements as in the discretion of the Commissioner may be deemed useful to the Executive Government in its final decision on the subject submitted.

30 His Honour submitted to the consideration of the Board a letter from Sir John Coape Sherbrooke, Commander of the Forces, dated at Quebec, 20th January last, inclosing a sketch of the Land at Penetanguishene Bay, said to be copied from a survey by Wilmot, Deputy Surveyor in this Province, and representing certain tracts designated thereon by red lines to be requisite and necessary to be reserved for Naval and Military purposes, and requesting that His Honour would direct such Reserves to be made in Order that the views of His Majesty's Government may be carried into effect.

Whereupon, by consideration and advice of the Council, it is Ordered accordingly, and that Copies of the Plan of Reservations, and of this minute be communicated to the Senior Officer of the Navy in this Province, and to the Commander of the Forces.



**No. 58.**

LETTER FROM SURVEYOR-GENERAL RIDOUT TO MR. SMALL, CLERK OF EXECUTIVE COUNCIL, INCLOSING SKETCHES OF THE LAND TO BE SO RESERVED AT PENETANGUISHENE, DATED 2ND MAY, 1818.

SURVEYOR-GENERAL'S OFFICE,

YORK, 2nd May, 1818.

SIR,—In obedience to the commands of His Honour the Administrator in Council on the 16th of April last, transmitted to me with your letter of the 18th of the same month, I have the honour to enclose herewith, three copies of the sketch of 10 of the land at Penetanguishene Bay to be reserved for Naval and Military purposes —having filed the original sketch in this office as ordered.

I have the honour to be, Sir,

Your most obedient humble servant,

THOS. RIDOUT,

*Surveyor-General.*

TO JOHN SMALL, ESQUIRE.

**No. 59.**

LETTER FROM SURVEYOR-GENERAL RIDOUT TO MR. SMALL, WITH RESPECT TO PREPARATION OF PLANS OF MILITARY RESERVES 20 IN UPPER CANADA, DATED 27TH JANUARY, 1818.

SURVEYOR-GENERAL'S OFFICE,

YORK, 27th January, 1818.

SIR,—I beg leave to acquaint you for the information of His Honor the Administrator in Council, that I have given directions to the draftsman to prepare, from such plans as my office furnish, copies of the several Military Reservations in this Province as directed, which shall be transmitted to you, with as little delay as possible.

I beg leave, however, to remark, that no official or regular communication upon the subject of the above mentioned Reserves appears ever to have been made 30 to this office, although a requisition in a letter of the 13 November, 1795, from the then Acting Surveyor-General, Mr. Smith, to Lieut. Pilkington, Commanding Royal Engineer, was made for that purpose, and all the information therefore which this Office has been able to obtain respecting the said Reserves, has been collected from Plans occasionally permitted to be copied from those in possession of the En-

See the observations of <sup>the</sup> Chancellor - page 37  
line 34 of the case.

St Albans. Command, R &

gineer, and from such as were received from the Surveyor-General's Office at Quebec, subsequent to the division of the Province, copies of which, together with the description of the lands under Grant, bounding thereon, have been repeatedly furnished for the information of the Engineer Department.

I have the honour to be, Sir,

Your most obedient humble servant,

THOS. RIDOUT,  
*Surveyor-General.*

To JOHN SMALL, Esquire,  
10 Clerk of the Executive Council.

## No. 60.

INSTRUCTIONS TO HIS EXCELLENCY THE EARL OF DALHOUSIE, CAP-TAIN-GENERAL AND GOVERNOR-IN-CHIEF OF UPPER CANADA,  
DATED 13TH APRIL, 1820.

Instructions to Our Right Trusty and Right Well Beloved Cousin and Chancellor, George, Earl of Dalhousie, of that part of Our United Kingdom called Scotland, Knight Grand Cross of the Most Honourable Military Order of the Bath, Lieutenant-General of Our Forces—Our Captain-General and Governor-in-Chief in and over Our Province of Upper Canada; or, in his absence, to Our Lieutenant-Governor or Commander-in-Chief of Our said Province for the time being. Given at Our Court, at Carlton House, the 13th day of April, 1820, in the first year of Our reign.

*17 June 1820  
to  
7 Sept 1828  
20*  
FIRST.—With these our instructions you will receive our Commission, under our Great Seal of our United Kingdom of Great Britain and Ireland, constituting you our Captain General and Governor-in-Chief in and over our Provinces of Upper Canada and Lower Canada, bounded (as in our said Commission is particularly expressed.)

In the execution, therefore, of so much of the office and trust we have reposed in you as relates to Upper Canada, you are to take upon you the administration of the Government of the said Province, and to do and execute all things belonging to your command, according to the several powers and authorities of our said Commission, under our Great Seal of our United Kingdom of Great Britain and Ireland, and of the Act passed in the thirty-first year of the reign of our dearest father, his late Majesty King George the Third, therein recited, and of these our Instructions to you, and according to such further powers and Instructions as you shall at any time hereafter receive under our signet and sign manual, or by our order in our Privy Council.



2nd. And you are, with all due solemnity, before the members of our Executive Council, to cause our said Commission to be read and published, which being done you shall then take, and also administer to each of the members of our said Executive Council, the several oaths, and subscribe to the declaration therein required.

3rd. You shall also administer, or cause to be administered, the oaths mentioned in our said Commission to all persons, except as hereafter mentioned, that shall be appointed to hold or exercise any office, place of trust or profit in our said Province, previous to their entering on the duties of such office, and you shall also 10 cause them to make and subscribe the aforesaid declaration ; but in cases where any such office, place of trust or profit, in our said Province of Upper Canada, shall be conferred on any of our subjects who may profess the religion of the Church of Rome, you shall so often as any such person shall or may be admitted into any such office, place of trust or profit, administer, or cause to be administered to him, the oath prescribed in and by an Act of Parliament passed in the fourteenth year of the reign of his late Majesty King George the Third, intituled, " An Act for making more effectual provision for the government of the Province of Quebec, in North America;" and also the usual oath for the execution of such office, place of trust or profit, in lieu of all other tests and oaths whatsoever.

20 4th. Whereas we have thought fit that there should be an Executive Council for assisting you, or our Lieutenant-Governor or person administering the government of our said Province of Upper Canada for the time being, we do by these presents nominate and appoint the undermentioned persons to be of the Executive Council of our said Province, viz :—William Dummer Powell, Esquire, our Chief Justice, or the Chief Justice of our said Province for the time being ; Jacob, Lord Bishop of Quebec ; James Baby, Samuel Smith, the Reverend John Strachan, D. D., and William Claus, Esquire. And whereas, by an order passed in the Province of Quebec, the Governor and Council of the said Province were constituted a Court of Civil Jurisdiction, for hearing and determining appeals in certain cases therein specified ; and whereas, by an Act passed in the thirty-first year of the reign of our dearest Father, his late Majesty King George the Third, it is declared that the Governor, Lieutenant-Governor, or person administering the government of the said Province, together with such Executive Council, shall be a Court of Civil Jurisdiction within our said Province, for hearing and determining appeals within the same in the like cases, and in the like manner and form, and subject to such appeal therefrom as such appeals might have been before the passing of the above recited Act, heard and determined by the Governor and Council of Quebec : In order, therefore, to carry the said Act into execution, our will and pleasure is, that you do in all civil causes, on application being made to you for that purpose, permit and allow appeals from any 40 of the Courts of Common Law in our said Province unto you and the Executive



Council of the said Province of Upper Canada, in manner prescribed by the above mentioned Act, and you are for that purpose to issue a Writ as nearly in the accustomed manner, before the passing of the above mentioned Act in respect of such appeals, as the case will admit, returnable before yourself and the Executive Council of the said Province, who are to proceed to hear and determine such appeals, wherein such of the Executive Council as shall be at that time Judges of the Court from whence such appeals shall be so made to you and to our said Executive Council as aforesaid, shall not be admitted to vote upon the said appeal, but they may, nevertheless, be present at the hearing thereof, to give the reasons of the judgment given by them in the causes wherein such appeals shall be made; provided nevertheless that in all such appeals the sum of value appealed for do exceed the sum of three hundred pounds sterling, and that security be first duly given by the Appellant to answer such charges as shall be awarded in case the first sentence be affirmed; and if either party shall not rest satisfied with the judgment of you and such Executive Council as aforesaid, our will and pleasure is, that they may then appeal unto us in our Privy Council, provided the sum or value so appealed for unto us do exceed the sum of five hundred pounds sterling, and that such appeal be made within fourteen days after such sentence, and good security be given by the Appellant that he will effectually prosecute the same, and answer the condemnation, as also pay such costs and damages as shall be awarded by us in case the sentence of you and the Executive Council be affirmed; provided, nevertheless, when the matter in question relates to the taking or determining any duty payable to us, or to any fee of office, or annual rents, or other such like matters or things, where the rights in future may be bound, in all such cases, you and the said Executive Council are to admit an appeal to us in our Privy Council, though the immediate sum or value appealed for be of a less value.

And it is our further will and pleasure that in all cases when, by your instructions, you are to admit appeals unto us in our Privy Council, execution shall be suspended until the final determination of such appeal, unless good and sufficient security be given by the Appellee to make ample restitution of all that the Appellant shall have lost by means of such decree or judgment, in case upon the determination of such appeal such decree or judgment should be reversed and restitution awarded to the Appellant. And you and our Executive Council are also to permit appeals unto us in our Privy Council in all cases of fines imposed for misdemeanors, provided the fines so imposed amount to or exceed the sum of one hundred pounds sterling, the Appellant first giving good security that he will effectually prosecute the same, and answer the condemnation if the sentence, by which the fine was imposed in your government, shall be confirmed.

5th. And that we may be always informed of the names and characters of persons fit to supply the vacancies which may happen in our said Executive Council, you



are, in case of any vacancy in the said Council, to transmit to us, through one of our Principal Secretaries of State, the names and characters of such three persons, inhabitants of our said Province of Upper Canada, whom you may esteem best qualified for fulfilling the trust of such Executive Councillor.

6th. And in the choice and selection of such persons proposed to fill such vacancy in our said Executive Council, as also of the chief Officers of Justice, you are always to take care that they may be men of good life, well affected to our government and of abilities suitable to their employment.

7th. And whereas we are sensible that effectual care ought to be taken to oblige 10 the members of our Executive Council to a due attendance, it is our will and pleasure, in order to prevent the many inconveniences which may happen for want of a quorum of the Council to transact business as occasion may require, that if any of the members of our Executive Council, residing in our said Province, shall hereafter wilfully absent themselves from the Province, and continue absent above the space of six months together, without leave from you first obtained under your hand and seal, or shall remain absent for the space of one year without our leave given them under our Royal signature, their places in the said Executive Council shall immediately thereupon become void ; and we do hereby will and require you that this our Royal pleasure be signified to the several members of our said Executive Council, 20 and that it be entered in the Council Book as a standing rule.

8th. And to the end that our said Executive Council may be assisting to you in all affairs relating to our service, you are to communicate to them such and so many of these our instructions wherein their advice is mentioned to be requisite, and likewise all such others, from time to time, as you shall find convenient for our service, to be imparted to them.

9th. You are to permit the Members of our said Executive Council to have and enjoy freedom of debate and vote in all affairs of public concern which may be debated in the said Executive Council.

10th. And whereas by the aforesaid recited Act, passed in the Thirty first year 30 of the Reign of our dearest father, His late Majesty King George the Third, it is provided that the seats of the members of Our Legislative Council shall become vacant in certain cases mentioned in the said Act : It is our will and pleasure that if any member of our said Legislative Council shall at any time leave our said Province and reside out of the same, you shall report the same to us by the first opportunity, through one of our Principal Secretaries of State, and you are also in like manner to report whether such Member of the said Council is absent by your permission, or by the permission of Our Lieutenant-Governor or Commander in Chief of the said Province for the time being, and you are also in like manner to report, if it shall come to your knowledge, that any such member shall at any time take, or have 40 taken, the oath of allegiance or obedience to any Foreign Prince or Power, or shall



be attainted for Treason in any Court of Law within any of our Dominions, that we may take such measures thereupon as We shall think fit, and you are to take especial care that the several provisions of the said Act respecting the several cases in which persons may, or may not, be entitled to receive Writs of Summons to the said Legislative Council, or to hold their places therein, shall be duly executed.

11th. And for the execution of so much of the powers vested in you by our said Commission, and by virtue of the said Act, as relates to the declaring that you assent in our name to Bills passed by the Legislative Council and House of Assembly, or that you withhold our assent therefrom, or that you reserve such Bills for the signification of our Royal pleasure thereon, it is our will and pleasure that you do carefully observe the following rules, directions and instructions, namely:—

That the style of enacting all the said Laws, Statutes and Ordinances, be by us, our heirs and successors, by and with the advice and consent of the Legislative Council and Assembly of Our Province of Upper Canada, constituted and assembled by virtue and under the authority of an Act passed in the Parliament of Great Britain, intituled: "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled 'An Act for making more effectual provision for the government of the Province of Quebec, in North America,' and to make further provision for the government of the said Province," and that no Bill in any other form shall be assented to by you in our name; that each different matter be provided for by a different law, without including in one and the same Act such things as have no proper relation to each other; that no clause be inserted in any Act or Ordinance which shall be foreign to what the title of it imports; and that no perpetual clause be part of any temporary law; that no law or Ordinance whatever be suspended, altered, continued, revived or repealed, in general words, but that the title and date of such law or ordinance shall be particularly mentioned in the enacting part; that in case any law or ordinance respecting private property shall be passed without a saving of the right of us, our heirs and successors, and of all persons or bodies politic or corporate, except such as are mentioned in the said law or ordinance, you shall declare that you withhold our assent from the same, and if any such law or ordinance shall be passed without such saving, you shall in every such case declare that you reserve the same for the signification of our Royal pleasure thereon; that in all laws or ordinances for levying money, or imposing fines, forfeitures or penalties, express mention be made that the same is granted to us, our heirs and successors, for the public uses of the said Province, and the support of the Government thereof, as by the said law shall be directed, and that a clause be inserted declaring that the due application of such money, pursuant to the directions of such law, shall be accounted for unto us, through our Commissioners of our Treasury, for the time being, in such manner and form as WE shall direct.

12th. And whereas WE have, by our said Commission, given you full power and authority, subject as therein specified, and to these our instructions in that behalf, to



issue Writs of Summons and Election, and to call together the Legislative Council and Assembly of our said Province of Upper Canada, and for the purpose of electing the members of the Assembly of our said Province of Upper Canada, have also given you full power and authority to issue a Proclamation dividing our said Province of Upper Canada into districts, or counties, or circles and towns, or townships, and declaring and appointing the number of representatives to be chosen by each of such districts, or counties, or circles and towns, or townships: Now our will and pleasure is, that you shall issue such Proclamation as soon as may be, allowing, nevertheless, a reasonable time between the issuing thereof and the time of issuing

10 the Writs of Summons and Election above mentioned.

13th. That all laws assented to by you in our name, or reserved for the significance of our Royal pleasure thereon, shall, when transmitted by you, be fairly abstracted in the margins and accompanied with very full and particular observations upon each of them, that is to say, whether the same is introductory to a new Law, declaratory of a former Law, or does repeal a Law then before in being. And you are also to transmit, in the fullest manner, the reasons and occasion for proposing such Laws, together with fair copies of the Journals and Minutes of the proceedings of the said Legislative Council and Assembly, which you are to require from the Clerks or other proper Officers in that behalf of the said Legislative Council and

20 Assembly.

14th. And whereas in the said Act it is provided that in certain cases Acts passed by the Legislative Council and Assembly of the Province shall, previous to any signification of our assent thereto, be laid before both Houses of our Parliament of this Kingdom; And whereas it is also provided in the said Act that in certain cases provision may be made by the Acts of the Legislative Council and Assembly of the Province, assented to by us, our heirs and successors (thereby reserving the power of giving such assent to us, our heirs or successors only)—you are to take especial care that in every such case you are to declare that you reserve such Bills for the signification of our pleasure thereon, and you will likewise reserve for such 30 signification every other Bill which you shall consider to be of an extraordinary or unusual nature, or requiring our especial consideration and decision thereupon, particularly such as may affect the property, credit or dealings of such of our subjects as are not usually resident within our said Province, or whereby duties shall be laid upon British or Irish shipping, or upon the produce or manufactures of Great Britain or Ireland.

15th. And whereas laws have formerly been enacted, in several of our Plantations in America, for so short a time that our Royal assent or refusal thereof could not be had before the time for which such laws were enacted did expire, you shall not assent in our name to any law that shall be enacted for a less time than two 40 years, except in cases of imminent necessity, or immediate temporary expediency. And you shall not declare our assent to any law containing provisions which shall



have been disallowed by us, without express leave for that purpose first obtained from us, upon a full representation by you, to be made to us through one of our Principal Secretaries of State, of the reasons and necessity of passing such law.

16th. Whereas we have thought fit, by our orders in our Privy Council, to disallow certain laws passed in some of our Colonies and Plantations in America, for conferring the privilege of naturalization on persons being aliens, and for divorcing persons who have been legally joined together in holy marriage ; and whereas Acts have been passed in others of our said Colonies to enable persons who are our liege subjects by birth or naturalization, to hold and inherit lands, tenements, and real estates, although such lands, tenements, and real estates had been originally granted to or purchased by aliens, antecedent to naturalization, it is our will and pleasure, that you do not, upon any pretence whatsoever, give your assent to any Bill or Bills that may hereafter be passed by the Legislative Council and Assembly of the said Province under your government, for the naturalization of aliens, nor for the divorce of persons joined in holy marriage, nor for establishing a title in any person to lands, tenements, and real estates, in our said Province, originally granted or purchased by aliens antecedent to naturalization.

17th. You are to give warrants under your hand for the issuing of public monies for all public services, and we do particularly require you to take care that regular accounts of all receipts and payments of public monies be duly kept, that the same from time to time be duly audited by our Executive Council, and that copies thereof, attested by you, be transmitted every half year, or oftener if there should be occasion, to our Commissioners of our Treasury, or to our High Treasurer for the time being, and duplicates thereof by the next conveyance, in which accounts shall be specified every particular sum raised or disposed of, to the end that we may take such measures as we may deem necessary for the examination of the said accounts, and that we may be satisfied of the right and due application of the revenues of our said Province of Upper Canada, and with the probability of the increase or diminution of it under every head and article thereof.

30 18th. Whereas by an Act of Parliament of Great Britain, passed in the fourth year of the reign of our dearest father, his late Majesty King George the Third, intituled, " An Act to prevent paper Bills of Credit hereafter to be issued in any of His Majesty's Colonies and Plantations in America, from being declared a legal tender in payment of money, and to prevent the legal tender of such Bills as are now subsisting from being prolonged beyond the periods limited for calling in and sinking the same " ; it is enacted that no Paper Bills or Bills of Credit, should be created or issued by an Act, Order, Resolution, or Vote of Assembly, in any of our Colonies or Plantations, in America, to be a legal tender in payment, and that any such Act, Order, Resolution, or Vote for creating or issuing such Paper Bills or 40 Bills of Credit, or for prolonging the legal tender of any such then subsisting and current in any of the said Colonies and Plantations, should be null and void : And



whereas by another Act, of our said Parliament passed in the thirteenth year of the reign of our dearest Father, His late Majesty King George the Third, intituled "An Act to explain and amend the above recited Act, passed in the fourth year of our reign as aforesaid," it is enacted that any certificates, notes, bills or debentures which shall, or may, be voluntarily accepted by the creditors of the public, within any of the Colonies in America, as security for the payment of what is due and owing to the said public creditors, may be made and enacted by the General Assemblies of the said Colonies respectively, to be a tender to the Public Treasurers in the said Colonies for the discharge of any duties, charges or debts whatsoever due to and payable at or in the said Public Treasuries of the Colonies, in virtue of laws passed within the same, and in no other case whatsoever: It is our will and pleasure, that you do in all things conform yourself to the provisions of the said recited Acts, both with respect to the not assenting to any Bills which may be presented to you for the purpose of issuing or creating Paper Bills or Bills of Credit, to be a legal tender in payment, and the assenting to any Bills, by which such certificates, notes or debentures, which may be voluntarily accepted in payment by the public creditor, shall be made a legal tender to the Treasury for taxes, duties and other payments, to the Public Treasury.

19th. You shall not remit any fines or forfeitures whatsoever above the sum of ten pounds, nor dispose of any forfeitures whatsoever until, upon signifying unto the Commissioners of our Treasury, or our High Treasurer for the time being, the nature of the offence and the occasion of such fines and forfeitures, with the particular sums or value thereof (which you are to do with all speed), you shall have received our directions thereon; but you may, in the meantime, suspend the payment of the said fines and forfeitures.

20th. And you are on every occasion to transmit to us, through one of our Principal Secretaries of State, with all convenient speed, a particular account of all new establishments of Jurisdictions, Courts, Offices and Officers, Powers, Authorities, Fees and Privileges granted and settled within our said Province of Upper Canada, as likewise an account of all the expenses (if any) attending the establishment of the said Courts and Offices.

21st. It is our further will and pleasure, that all Commissions to be granted by you to any person or persons to be Judge, Justice of the Peace, or other necessary Officer, be granted during pleasure only.

22nd. You are not to suspend any of the members of the said Executive Council, or to suspend or displace any of the Judges, Justices, Sheriffs, or other Officers or Ministers within our said Province of Upper Canada, without good and sufficient cause; and in case of such suspension or removal, you are forthwith to transmit your reasons for the same to one of our Principal Secretaries of State.

40 23rd. And whereas frequent complaints have been made of great delays and undue proceedings in the Courts of Justice in several of our plantations, whereby



many of our good subjects have very much suffered, and it being of the greatest importance to our service, and to the welfare of our plantations that justice be everywhere speedily and duly administered, and that all disorders, delays, and other undue practices in the administration thereof be effectually prevented, we do particularly require you to take especial care that in all Courts where you are authorized to preside, justice be impartially administered, and that in all other Courts established within our said Province, all Judges and other persons therein concerned do likewise perform the several duties without delay or partiality.

24th. You are to take care that no Court of Judicature be adjourned but upon 10 good grounds, and also that no orders of any Court of Judicature be entered, or allowed, which shall not be first read and approved of by the Justices in open Court, which Rule you are in like manner to see observed with relation to all proceedings of our Executive Council of Upper Canada, and that all orders there made, be first read and approved in such Council, before they are entered upon the Council Books.

25th. You are to take care that all Writs within the said Province of Upper Canada be issued in our name.

26th. You shall take care, with the advice and assistance of our Executive Council, that such prisons as may at any time be necessary, be erected, and that the same, or any other already erected, be kept in such a condition as may effectually 20 secure the prisoners which now are or may hereafter be confined in them.

27th. You shall not suffer any person to execute more Offices than one by deputy.

28th. You shall not, by colour of any power or authority hereby or otherwise granted, or mentioned to be granted unto you, take upon you to give, grant, or dispose of any place or office within our said Province, which now is or shall be granted under the Great Seal of this Kingdom, or to which any person is, or shall be, appointed by Warrant under our Signet and Sign Manual, any further than that you may, upon the vacancy of any such office or place, or upon the suspension of any such Officer by you as aforesaid, put in any fit person to officiate in the interval till you shall have represented the matter unto us, through one of our Principal Secretaries of State, 30 which you are to do by the first opportunity, and till the said office or place is disposed of by us, our heirs or successors, under the great Seal of this Kingdom, or until some person shall be appointed thereunto, under our Signet and Sign Manual, or until our further directions be given therein; and it is our express will and pleasure that you do give reasonable support unto the Patent Officers in the enjoyment of their legal and established fees, rights, privileges and emoluments, according to the true intent and meaning of their respective Patents.

29th. And whereas several complaints have been made by the officers of our Customs in our Plantations in America that they have frequently been obliged to serve on juries, and personally to appear in arms whenever the Militia is drawn out, and 40 thereby are much hindered in the execution of their employments, our will and pleasure is, that you take effectual care and give the necessary directions that the



several officers of our Customs be excused and exempted from serving in any juries, or personally appearing in arms in the Militia, unless in cases of absolute necessity, or serving any particular offices which may hinder them in the execution of their duties.

30th. And whereas nothing can more effectually tend to the speedy settling of our said Province of Upper Canada, the security of the property of our subjects, and the advancement of our revenue, than the disposal of such lands as are our property, upon good and reasonable terms, and the establishing of a regular and proper method of proceeding with respect to the passing of grants of such lands, it is our will and pleasure that all and every person or persons who shall apply for any grant or grants of land shall, previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same; and in case you shall, upon a consideration of the circumstances of the person or persons applying for such grants, think it advisable to pass the same, you are, in such case, to cause a warrant to be drawn up, directed to the Surveyor-General or other officer, empowering him or them to make a faithful and exact survey of the lands so petitioned for, and to return the said warrant within six months at furthest from the date thereof, with a plot or description of the land so surveyed thereunto annexed; and when the warrant shall be returned by the said surveyor, or other proper officer, the grant shall be made out in due form, and the terms and conditions required by these our instructions be particularly and expressly mentioned therein; and it is our will and pleasure that the said grants shall be registered within six months from the date thereof in the Registrar's office, and a docket thereof be also entered in our Auditor's office, copies of all which entries shall be regularly returned by the proper officer to our Commissioners of our Treasury.

31st. And for the further encouragement of our subjects, it is our will and pleasure that the lands to be granted by you, as aforesaid, shall be laid out in townships, and that each inland township shall, as nearly as circumstances will admit, consist of ten miles square, and such as shall be situated upon a navigable river or water shall have a front of nine miles and be twelve miles in depth, and sub-divided in such manner as shall be found most advisable for the accommodation of the settlers, and for making the several reservations for public uses, and particularly for the support of the Protestant clergy, agreeably to the above recited Act, passed in the thirty-first year of the reign of our dearest tather, his late Majesty King George the Third.

32nd. And whereas great inconveniences have heretofore arisen, in many of our Colonies in America, from the granting excessive quantities of land to particular persons who have never cultivated or settled the same, and have thereby prevented others more industrious from improving such lands,—in order, therefore, to prevent the like inconveniences in future, it is our will and pleasure that you observe the following directions and regulations in all grants to be made by you as aforesaid,

Instructions to the Earl of Dalhousie  
13 April 1820.

As to Land Grants

navigable Rivers

that is to say: That no town lot shall be granted to any one person, being master or mistress of a family, in any township so to be laid out, which shall contain more than one acre; that no park lot shall be granted to any one person, being the master or mistress of a family, in any township so to be laid out, which shall contain more than twenty-four acres; that no farm lot shall be granted to any one person, being master or mistress of a family, in any township so to be laid out, which shall contain more than two hundred acres. It is our will and pleasure, and you are hereby allowed and permitted to grant unto every such person, or persons, such further quantity of land as they may desire, not exceeding one thousand acres over and above  
 10 what may heretofore have been granted to them; and in all grants of land to be made by you as aforesaid, you are to take care that due regard be had to the quality and comparative value of the different parts of lands comprised within any township, so that each grantee may have, as nearly as may be, a proportionate quantity of land of such different quality and comparative value, as likewise that the breadth of such tract of land to be hereafter granted be one-third of the length of such tract, and that the length of such tract do not extend along the banks of any river, but into the mainland, that thereby the said grantees may have each a convenient share of what accommodation the river may afford for navigation or otherwise.

33rd. And as a further accommodation to our subjects, who shall become Settlers as aforesaid, it is our will and pleasure that the said Townships, and the respective allotments within the same, together with the lands to be reserved as aforesaid, shall be seen and laid out by our Surveyor-General of Lands for the said Province, or some skilful person authorized by him for that purpose, which Surveys, together with the Warrants and Grants, and the respective allotments, shall be made out for and delivered to the several Grantees, free of any expense or fee whatever, other than such as may be payable to the different Officers, according to the Table of Fees established upon Grants of Land made in the said Province.

34th. And in order to prevent any persons disaffected to us and our Government from becoming Settlers in our said Province of Upper Canada, it is our will and pleasure that no Warrants for surveying Lands be granted by you or the Lieutenant-Governor, or person administering the Government for the time being, unless the person or persons applying for the same do, at the time of making such application, besides taking the usual oaths directed by Law, also make and subscribe the following declaration in your or his presence, or in the presence of such person or persons as shall by you or him be appointed for that purpose, that is to say:—I, A. B., do promise and declare that I will maintain and defend, to the utmost of my power, the authority of the King in his Parliament as the Supreme Legislature of this Province.

35th. Whereas the reserving such bodies of Land, within our Province of Upper Canada, where there are considerable growths of Timber fit for the use of Our Royal Navy, is a matter of the utmost importance to our Service, it is our will and



pleasure that no grants whatever be made of Lands in any District or Tract of our said Province of Upper Canada until our Surveyor-General, or his Deputy lawfully appointed, shall have surveyed the same and marked out as reservations to us, our heirs and successors, such parts thereof as shall be found to contain any considerable growth of Masting or other Timber fit for the use of Our Royal Navy, and more especially upon the Rivers, and you are hereby instructed to direct our Surveyor-General of Lands, in our said Province, from time to time, with all due diligence, to complete the Surveys and mark out the reservations as aforesaid in the most convenient parts of our said Province, and you are from time to time to report the number, extent and situation of such reservations. And you are further to direct our Surveyor-General not to certify any plots of ground, ordered and surveyed for any person or persons, in order that grants may be made out for the same until it shall appear to him, by a Certificate under the hand of our Surveyor-General of Woods, or his deputy, that the land so to be granted is not part of, or included, in any District marked out as a reservation for us, our heirs and successors, as aforesaid, for the purpose hereinbefore mentioned, and in order to prevent any deceit or fraud from being committed by the persons applying for lands in this respect, it is our will and pleasure that in all grants to be hereafter made for lands within Our said Province of Upper Canada the following proviso and exceptions be inserted, that is to say :—“ And provided also that no part of the parcel or tract of land hereby granted “ to the said and his heirs be within any reservation heretofore made “ and marked for us, our heirs and successors, by our Surveyor-General of Woods or “ his lawful Deputy, in which case this Our Grant for such part of the land hereby “ given and granted to the said and his heirs for ever, as aforesaid, “ and which shall, upon a survey thereof being made, be found within any such “ reservations, shall be null and void and of none effect, anything herein contained “ to the contrary notwithstanding.”

36th. And whereas, it is necessary that all persons who may be desirous of settling in our said Province should be fully informed of the conditions and terms  
30 upon which lands will be granted within Our said Province of Upper Canada, in the manner prescribed in and by the said Act passed in the thirty-first year of the reign of Our Dearest Father, His late Majesty King George the Third, you are therefore, as soon as possible, to cause a publication to be made, by Proclamation or otherwise, as you shall in your discretion think most advisable, of the said terms and conditions respecting the granting of lands, in which Proclamation it may be expedient to add some short description of the natural advantages of the soil and climate, and its peculiar convenience for trade and navigation

37th. And it is our further will and pleasure that all the foregoing instructions to you, as well as any which you may hereafter receive relative to the passing grants 40 of land in conformity to the said Act passed in the thirty-first year of the reign of Our Dearest Father, His late Majesty King George the Third, be entered upon record

No Grant ~~is~~ to be part of any reservation  
marked out  
for Timber (bodies of Land) fit for the use of the  
Royal Navy

The grant affects apparently ~~any~~ any Reservation

for the information and satisfaction of all parties whatever that may be concerned therein.

38th. And whereas it hath been represented to US, that many parts of the Province under your Government, are particularly adapted to the growth and culture of Hemp and Flax; it is therefore our will and pleasure, that in all Surveys for Settlements, the Surveyor be directed to report whether there are any, or what quantity of Lands contained within such Surveys for the production of Hemp and Flax.

39th. And whereas it hath been represented to US, that several parts of our Province of Upper Canada, have been found to abound with coals; it is our will and pleasure, that in all grants of Land to be made by you, a clause be inserted, reserving to US, our heirs and successors, all Coals, and also all Mines of Gold, Silver, Copper, Tin, Iron and Lead, which shall be discovered upon such Lands.

40th. You shall cause a Survey to be made of all considerable landing places and harbours, in our said Province, in case the same shall not have already been done, and report to US, through one of our principal Secretaries of State, how far any Fortifications be necessary for the security and advantage of the said Province.

41st. Whereas the establishment of proper regulations on matters of Ecclesiastical concern, is an object of very great importance, it will be your indispensable duty, to take care that no arrangements in regard thereto, be made, but such as may give full satisfaction to our new Subjects, in every point to which they have a right to any indulgence on that head, always remembering that it is a toleration of the free exercise of the religion of the Church of Rome only, to which they are entitled, but not to the powers and privileges of it as an Established Church, that being a preference which belongs only to the Protestant Church of England.

42nd. And upon these principles therefore, and to the end that Our just supremacy in all matters, Ecclesiastical as well as Civil, may have its due scope and influence, it is Our Will and pleasure—

First, that all Appeals to or correspondence with any Foreign Ecclesiastical Jurisdiction, of what nature or kind soever, be absolutely forbidden, under very severe penalties.

Secondly, that no Episcopal or Vicarial powers be exercised within our said Province, by any person professing the religion of the Church of Rome but such only as are indispensably and indisputably necessary to the free exercise of the Romish religion, and in those cases, not without a license and permission from you, under the Seal of our said Province, for and during Our will and pleasure, and under such other limitations and restrictions as may correspond with the spirit and provisions of the Act of the fourteenth year of the reign of Our dearest Father, His late Majesty King George the Third, "for making more effectual provision for the Government of the Province of Quebec," and no person whatever is to have Holy Orders conferred upon him, or to have the care of souls, without a license for that purpose, first had and obtained from you.

Survey of Considerable Landing places  
and Harbours  
Fortifications

Thirdly, that no person professing the religion of the Church of Rome, be allowed to fill any Ecclesiastical Benefice, or to have or to enjoy any of the rights or profits belonging thereto, who is not a Canadian by birth (such only excepted as are now in possession of any such benefices), and who is not appointed thereto, by US, or under our authority, and that all right or claim of right, in any other person whatever, to nominate, present or appoint to any vacant benefice, other than such as may lay claim to the patronage of benefices as a civil right, be absolutely abolished; no person to hold more than one benefice, or at least, not more than can reasonably be served by one and the same incumbent.

10 Fourthly, that no person whatever, professing the religion of the Church of Rome, be appointed incumbent of any parish in which the majority of the inhabitants shall solicit the appointment of a Protestant Minister; in such case, the incumbent shall be a Protestant, and entitled to all tithes payable within such parish, but, nevertheless, the Roman Catholics may have the use of the church, for the free exercise of their religion, at such time as may not interfere with the religious worship of the Protestants, and in like manner the Protestant inhabitants in every parish, where the majority of the parishioners are Roman Catholics, shall, notwithstanding, have the free use of the church, for the exercise of their religion, at such times as may not interfere with the religious worship of the Roman Catholics.

20 Fifthly, that no incumbent, professing the religion of the Church of Rome, appointed to any parish, shall be entitled to receive any tithes for lands, or possessions occupied by a Protestant; but such tithes shall be received by such persons as you shall appoint, and shall be reserved in the hands of Our Receiver General, as aforesaid, for the support of a Protestant Clergy in our said Province, to be actually resident within the same and not otherwise, according to such directions as you shall receive from US in that behalf, and in like manner, all growing rents and profits of a vacant benefice, shall, during such vacancy, be reserved for and applied to the like uses.

Sixthly, that all persons professing the religion of the Church of Rome who are already possessed of or may hereafter be appointed to any Ecclesiastical Benefice, or 30 who may be licensed to exercise any power or authority, in respect thereto, do take and subscribe before you, in Council, or before such person as you shall appoint to administer the same, the oath required to be taken and subscribed, by the aforesaid Act of Parliament, passed in the fourteenth year of the reign of Our Dearest Father, His late Majesty King George the Third, intituled: "An Act for making more effectual provision for the Government of the Province of Quebec, in North America."

Seventhly, that all incumbents of parishes, professing the Romish religion, not being under the ecclesiastical jurisdiction of the Bishop of Quebec, shall hold their respective benefices during their good behavior, subject, however, in case of any conviction for criminal offences, or upon due proofs of seditious attempts to disturb the peace and tranquility of our Government, to be deprived or suspended by you.



Eighthly, that such Ecclesiastics as may think fit to enter into the holy state of matrimony shall be released from all penalties to which they may have been subjected in such cases by any authority of the See of Rome.

Ninthly, that freedom of the burial of the dead, in the churches and churchyards, be allowed indiscriminately to every Christian persuasion.

Tenthly, that the Royal Family be prayed for in all churches and places of public worship, in such manner and form as is used in this Kingdom, and that our Arms and Insignia be put up not only in all such churches and places of holy worship, but also in all courts of justice, and that the Arms of France be taken down in 10 any such church or court where they may at present remain.

43rd. You are to permit liberty of conscience, and the free exercise of all such modes of religious worship as are not prohibited by law, to all persons who may inhabit and frequent the Province of Upper Canada, provided they be content with a quiet and peaceable enjoyment of the same, without giving offence or scandal to the Government.

44th. It is our will and pleasure to reserve to you the granting of licenses for marriages, letters of administration and probates of wills, as heretofore exercised by you and your predecessors, and also to reserve to you, and to all others to whom it may lawfully belong, the patronage and right of presentation to benefices; but it is 20 our will and pleasure that the person so presented shall be installed by the Bishop, or his Commissary duly authorized by him.

45th. You are to take especial care that God Almighty be devoutly and duly served throughout your Government, that the Lord's Day be duly kept, and the services and prayers appointed by and according to the Book of Common Prayer be publicly and solemnly performed throughout the year.

46th. You are to take care that the churches which are or may be hereafter erected in our said Province of Upper Canada be well and orderly kept.

47th. You shall recommend to the Legislative Council and General Assembly of the Province of Upper Canada to settle the limits of parishes in such manner as shall 30 be deemed most convenient.

48th. You are to use your best endeavour that each minister be constituted one of the Vestry in his respective parish, and that no Vestry be held without him, except in case of sickness, or that after notice given of a Vestry he omit to come.

49th. It is our Will and pleasure that you recommend to the Legislative Council and Assembly of our said Province of Upper Canada to make due provision for the erecting and maintaining of schools, where youth may be educated in competent learning, and in knowledge of the principles of the Christian religion.

50th. And it is our further will and pleasure that no person shall be allowed to keep a school in the Province of Upper Canada without your license first had and 40 obtained, in granting of which you are to pay the most particular attention to the morals and qualifications of the persons applying for the same; and in all cases



where the school has been instituted or appointed for the education of members of the Church of England, or where it is intended that the schoolmaster should be a member of the Church of England, you are not to grant such licenses except to persons who shall first have obtained from the Bishop of Quebec, or one of his Commissioners, a certificate of their being properly qualified for that purpose.

51st. And it is our further will and pleasure that, in order to suppress every species of vice, profaneness and immorality, you do forthwith cause all laws made against blasphemy, profaneness, adultery, fornication, polygamy, incest, profanation of the Lord's Day, swearing and drunkenness, to be strictly put in execution in every part of the Province of Upper Canada, and that for this purpose you do direct that the constables and churchwardens of the several parishes do make presentment, upon oath, of any of the vices before mentioned to the justices of the peace in their session, or to any other of the temporal courts; and you are earnestly to recommend to the Legislative Council and Assembly to provide effectual laws for the restraint and punishment of all such of the aforementioned vices against which no laws are as yet provided, or in cases where the laws already made are found to be insufficient; and in order to discountenance vice and promote the practice of virtue to the utmost of your power, we do hereby strictly command and enjoin you to appoint no person to be a justice of the peace, or to any trust or employment, whose notorious ill-life or conversation may occasion scandal.

52nd. You are not to present any Protestant Minister to any Ecclesiastical Benefice within our said province, by virtue of the said Act passed in the thirty-first year of the reign of his late Majesty King George the Third, and of our commission to you, without a proper certificate from the Bishop of Quebec, or his commissary, of his being conformable to the doctrine and discipline of the Church of England.

53rd. And you are to take especial care that the table of marriages established by the Canons of the Church of England, be hung up in all places of public worship, according to the rites of the Church of England.

54th. It is our will and intention that the peltry trade of the interior country shall be free and open to all our subjects, inhabitants of any of our Colonies, who shall, pursuant to what was directed by the Royal Proclamation of 1763, obtain trading licenses from the Governor of any of our said Colonies, under penalties, to observe such regulations as shall be made by our Legislature of our Province of Upper Canada, for that purpose. These regulations, therefore, when established, must be made public throughout all our American possessions, and they must have for their object the giving every possible facility to that trade which the nature will admit, and which may be consistent with fair and just dealing towards the native Indians with whom it is carried on. The fixed stated times and places for carrying on the trade and adjusting modes for settling tariffs of the price of goods and furs, and



above all, the restraining the sale of spirituous liquors to the Indians, will be the most profitable and effectual means of answering the ends proposed.

55th. And, whereas, it is expedient for our service that we should, from time to time, be informed of the state of the trade and fisheries, as well as of the population of the said province of Upper Canada, it is our will and pleasure that you do transmit to us, through one of our Principal Secretaries of State, and to our Committee of our Privy Council for Trade and Foreign Plantations, for their information, yearly, and every year, a full and particular account of the state of the fur and peltry trade, the nature and extent of the several fisheries carried on by our subjects or others,  
 10 either on the lakes or rivers of the said province, ~~the state of the cultivation, particularly specifying the quantity of grain, hemp and flax produced, and of any other important branch of trade which may, in your opinion, be undertaken and advantageously carried on by our subjects; the number of inhabitants, distinguishing them under different heads of men, women and children, inserting in such account the number of persons born, christened and buried, and any extraordinary influx, or emigration from our said province, specifying, at the same time, the number of slaves and the number of our subjects capable of bearing arms in the militia; the number and tonnage of shipping and craft employed upon the lakes and rivers in, or contiguous to the Province of Upper Canada,~~ together with any information on these  
 20 or any other points of the like nature, which may be proper to be communicated to us.

56th. And, whereas, you will receive from our Commissioners for executing the Office of High Admiral of our United Kingdom of Great Britain and Ireland and of the Plantations, a commission constituting you Vice-Admiral of our said Province of Upper Canada, you are required and directed carefully to put in execution the several powers thereby granted to you.

57th. Whereas, it is absolutely necessary that we be exactly informed of the state of defence of all our plantations in America, as well in relation to the stores of war that are in each plantation, as to the forts and fortifications there, and what  
 30 more may be necessary to be built for the defence and security of the same: you are, from time to time, to transmit an account thereof, with relation to our said Province of Upper Canada, in the most particular manner, and you are therein to express the present state of the arms, ammunition, and other stores of war belonging to the said province, either in any public magazine or in the hands of private persons, together with a state of all places either already fortified, or that you may judge necessary to be fortified, for the security of our said province; and you are to transmit the said accounts to us through one of our Principal Secretaries of State, and also duplicates to our Master-General or Principal Officers of our Ordnance, which accounts are to express the particulars of ordnance carriages, balls, powder, and all other sorts of  
 40 arms and ammunition in our public stores, and so from time to time of what shall be sent to you or bought with the public money, and to specify the time of the dis-

Instructions to the Earl of Dalhousie  
13 April 1820

## Trade & Fisheries

accounts relating to stores of war<sup>^</sup>, and the  
~~state of defence as to forts etc~~ and  
~~for helped places~~  
what may be necessary to collect  
to be transmitted  
to Secretary of State and provincial Officers  
of Admiralty

posal, and the occasion thereof, and other like accounts, half-yearly in the same manner.

58th. And in case of distress of any other of our Plantations, you shall, upon application of the respective Governors thereof to you, assist them with what aid the condition and safety of our said Province under your Government can spare.

59th. If anything shall happen which may be of advantage or security to our Province, under your government, which is not herein or by your Commission provided for, we do allow unto you, with the advice and consent of our said Executive Council, to take order for the present therein; provided nevertheless, that what shall 10 be done be not repugnant to our Commissions and Instructions, and to the said Acts passed in the fourteenth and thirty-first years of the reign of our dearest Father, his late Majesty King George the Third, giving unto us, through one of our Principal Secretaries of State, speedy notice thereof, that you may receive our ratification if we shall approve the same; provided always, that you do not, by colour of any power or authority hereby given you, commence or declare war without our knowledge and particular commands therein, except it be for the purpose of preventing or repelling hostilities, or unavoidable emergencies, when the consent of our said Executive Council shall be had, and speedy notice given thereof to us, through one of our Principal Secretaries of State.

20 60th. And whereas great prejudice may happen to our service, and to the security of our said Province, by your absence, or the absence of our Lieutenant Governor for the time being, you shall not upon any pretence whatsoever, come to Europe without having first obtained leave for so doing from Us, under our Signet and Sign Manual, or by our Order in our Privy Council.

61st. And whereas We have thought fit by our Commission, to direct that in case of your death, or absence from our said Provinces and in case there be, at that time, no person commissioned or appointed by us to be our Lieutenant-Governor, or appointed by us to administer the Government within the Province in the event of the death or absence of you, and of our Lieutenant-Governor of the said Province, 30 the Senior Member of the Executive Council, who shall be at the time of your death or absence residing within our said Province of Upper Canada, (subject to such other nomination and appointment by you, under the Great Seal of our said Province, as in our said Commission is in that behalf mentioned), shall take upon him the Administration of the Government, and execute our said Commission and Instructions, and the several powers and authorities therein contained, in the manner thereby directed. It is, nevertheless, our express will and pleasure, that in such case, the person so administering the Government shall forbear to assent to any Acts but what are immediately necessary for the welfare of our said Province, without our particular Orders for that purpose, and that he shall not take upon him to dissolve 40 the Assembly then in being, nor to remove or suspend any of the Members of our said Executive Council, nor any Judges, Justices of the Peace, or other Officers, Civil



or Military, without the advice and consent of the majority of the said Executive Council, and he is, by the first opportunity, to transmit to us, through one of our Principal Secretaries of State, the reasons of such alterations, signed by him and the Council, and our will and pleasure is, that the above Instructions with respect to such Senior Councillor shall also be equally observed by and binding upon such other Executive Councillor as may be nominated and appointed by you, under the Great Seal of our said Province, by virtue of our said Commission in that behalf.

62nd. And whereas, by our different Commissions, we have appointed you to be our Governor and Commander-in-Chief of our Provinces of Upper Canada and Lower 10 Canada, our Province of Nova Scotia, our Island of Prince Edward, as well as of our Province of New Brunswick; and it is our intention that the Lieutenant-Governors commanding in our said Provinces of Upper Canada, New Brunswick and Nova Scotia, and the Island of Prince Edward, should have and enjoy the full salaries, perquisites, and emoluments granted to them, and arising from their respective Governments, in as full and ample a manner as if the said Governments were under disjoint Governors-in-Chief, it is, therefore, our will and pleasure that you shall not, at any time or times, when you shall be resident and Commanding in Chief in either of our said Provinces of Upper Canada, Nova Scotia, or New Brunswick, or the Island of Prince Edward, have or receive any part of the said salaries, perquisites 20 or emoluments, but that the same shall continue to be paid and satisfied to the Lieutenant-Governors of our said Provinces and Island respectively, in the like manner as they usually are during your absence therefrom.

63rd. And you are, upon all occasions, to send us, through one of our Principal Secretaries of State, a particular account of all your proceedings and of the condition of affairs within your Government.

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I, Henry Pelham, Duke of Newcastle, do hereby certify, unto all whom it may concern, that the above is a true and correct copy of the Instructions, under the Royal Sign Manual and Signet, to the Earl of Dalhousie, as Governor of Upper and Lower 30 Canada, as dated the thirteenth day of April, 1820.

Given under my hand and Seal of Arms, at Downing Street, London, this twentieth day of April, 1854.

## No. 61.

PETITION OF WILLIAM FORSYTH, AND PROCEEDINGS THEREON IN COUNCIL, UNDER DATES OF 28TH AND 30TH NOV., 1820.

To HIS EXCELLENCY SIR PEREGRINE MAITLAND, KNIGHT COMMANDER OF THE MOST HONOURABLE ORDER OF THE BATH, LIEUTENANT-GOVERNOR OF THE PROVINCE OF UPPER CANADA, &c., &c., &c.

The Petition of William Forsyth, of the Township of Stamford, in the District 40 of Niagara, Inn-Keeper, HUMBLY SHEWETH :—



That your Petitioner, as the keeper of an inn contiguous to the Falls, for the accommodation of travellers and visitors of the Falls, about two years ago, at a very considerable expense, erected a set of stairs under roof, to facilitate access to a view of the Falls, at the foot of the great pitch under the River Bank, and have since provided a boat, with constant attendance, for the purpose of crossing such visitors and travellers over the river, immediately under the Falls; that these stairs are erected upon the chain reserved for Military purposes, in front of your petitioners' land, between it and the river.

That Your Petitioner having understood that application has been made to Your Excellency for a Grant or License of Occupation of the chain, and the privileges of a ferry, humbly prays that Your Excellency will be pleased to take into your consideration the outlay made by your petitioner, as before stated; that if the chain is granted away it may prove materially injurious to your petitioner, inasmuch as that it may not only deprive your petitioner of the improvements made by him, but of access to the river, and oblige him to make a fence along the whole of his front, which, as it will be much exposed from its contiguity to the Falls, your petitioner, to save his crops, must necessarily incur a further, and no inconsiderable expense, to keep it in repair.

Your Petitioner, therefore, humbly Prays that Your Excellency will be pleased to grant to your petitioner, during pleasure, the chain so reserved (being in front of lots number 144 and the north half of 145, in the Township of Stamford), together with the privilege of keeping a Ferry in front of the said chain, under such regulations as the Magistrates of the District, in General Quarter Sessions assembled, shall think proper to make, or leave the same in its present state, ungranted, for the use of the public.

And Your Petitioner, as in duty bound, will ever pray.

WM. FORSYTH.

STAMFORD, 30th October, 1820.

(Copy of endorsement on the foregoing petition.)

30 No. 1, F. 40.

The Petition of William Forsyth respecting the Ferry and chain of Reserved Land immediately below the Falls of Niagara.

Recd. from himself 8th November, 1820.

Referred to the Surveyor-General to Report, by Order.

JOHN BEIKIE, Conf. Clerk.

Ent in State Book G., page 175.

The Military Reservation of one chain in width, on the top of the Bank, extends all along the Niagara River.

That part of the Reservation applied for by the Petitioner, in front of lot number 40 144 and the north half of number 145, in the Township of Stamford, appears by the plans in this office to be at some distance above the Falls, and where the keeping of

*above  
is a mistake*

Forsyth to Sir Peregrine (1820)

Surveyor General's Report

all along the Niagara River  
in Willoughby portage of  $7\frac{1}{4}$  a  $7\frac{1}{2}$  miles  
 $2\frac{1}{2}$  miles described to water edge  
i.e each lot 20 chains - 30 lots of  
which 9 lots ~~no~~ to water edge &  
no reserve See Exhibit N<sup>o</sup> 32 p 122

a Ferry, in front of the chain of ground applied for, appears to be impracticable, as it is immediately opposite the Rapids leading to the precipice of the Falls.

It is therefore respectfully submitted that the Petitioner be directed to transmit to this office a plan of survey, by a Licensed Surveyor, shewing the situation and extent of the land prayed for, to enable me to report with more precision to Your Excellency.

T. RIDOUT, *Sr. Genl.*

30th Nov., 1820.

IN COUNCIL, 28th November, 1820 :—

- 10 The Petition of William Forsyth for License to occupy, during pleasure, a reserved chain on the Niagara River, and for a Ferry in front thereof, presented the 8th Nov., 1820.

It is respectfully submitted, that inasmuch as respects the reserved chain, no license of occupation can be recommended, and as regards to a Ferry, one immediately adjacent has been recommended on the previous Petition of Christopher Boughner, recommended on the 18th October, 1820.

W. DUMMER POWELL, *C.J.*

## NO. 62.

- LETTER FROM MESSRS. STREET & KIRBY TO MAJOR HILLIER, SECRETARY OF LIEUTENANT-GOVERNOR, WITH LETTER THEREWITH  
20 TO MR. SMALL, CLERK OF EXECUTIVE COUNCIL, AND PROCEEDINGS OF EXECUTIVE COUNCIL THEREON.

NIAGARA FALLS MILLS, August 13th, 1821.

SIR,—On the 23rd of August last we were honored with your letter of the 16th of the same month addressed to Samuel Street—acknowledging receipt of a petition to His Excellency the Lieutenant-Governor from us as executors under the will of Samuel Street, Esq., late of Willoughby, deceased, and sundry documents relative to claims of the heirs of the late Mr. Street to the lands at Queenstown, considered a military reserve, stating that those documents had been transmitted to the Executive Council and would have every attention so soon as a full Council could be assembled— We beg leave to request the favour of information as to the proceedings thereupon by the Executive Council, and have the honor to be, Sir,

Your most obedient and humble servants,

MAJOR HILLIER,  
&c., &c.

SAMUEL STREET,  
JAMES KIRBY.



GOVERNMENT HOUSE, August 22nd, 1821.

SIR,—I have to inform you it is the pleasure of His Excellency the Lieut.-Governor that the enclosed letter be laid before the Honourable the Executive Council at its first sitting.

I have the honor to be, Sir,

JOHN SMALL, Esq.,

Clk. Ex. Council.

Your most obedient, Humble servant,

GEORGE HILLIER,

On the representation of the executors of the late Samuel Street, Esquire, the Committee of the Executive Council to which your Excellency was pleased to refer 10 the same have assiduously traced the pretensions to preference on the part of their testator or his representatives to enjoy any part of the military reserve at Queenstown and agree to report:

1. That the military reserve in question was certainly pointed out by the Chief Engineer, Colonel, now General Mann, as necessary to the public service when the transport from lake Ontario to Lake Erie should be transferred from the east to the west side of the Niagara River.

That previous to this designation by the Chief Engineer, the spot had been occupied by Isaac Dolson under authority from Major-General Powell, sometime commanding the Fort of Niagara and its dependencies, but this license does not appear, and is 20 only referred and recognized in an act by his successor, Lieut.-Colonel Depeyster, consenting to a transfer of possession from Isaac Dolson to Samuel Street and John McLauchlan, bearing date in August, 1784. This act describes the two parcels of land by metes and bounds running from the river and containing two hundred and six acres of land, without reserve, and declares the tenure to be changed agreeable to instructions granting lands to settlers.

That upon the premises occupied by Dolson, there were buildings which were transferred to Mr. Street by a subsequent transaction with Mr. McLauchlan.

That in a map of the Township of Niagara, part of the land described in the list of Lieutenant-Colonel Depeyster, is contained in the lots two and three which appear to have been subsequently located by Deputy-Surveyor Fry to Mr. Street, but do 30 not embrace the broken front containing the military reserve, on which the building appear to have been erected.

That the landing for transport to the upper lakes being removed from the east side of the river was established within the military reserve located by Colonel Mann, and subsequently to the division of the province into Upper and Lower Canada, Lieutenant-Governor Simcoe, commanding also the forces in Upper Canada, took possession of the whole reserved by the engineer, and proceedings were had by S. Street, Esq., against the actual engineer on duty, in which a judgment appears to have recognized the military reserve as distinct from the just claim of Mr. Street, who it

Gother Mann points out land for  
Military Reserve at Queenston

also appears by an Order in Council accepted a grant of the two lots, two hundred and fifty acres, not comprehending the military reserve; but retaining his pretensions by a protest to that effect. The leases of parcels of this Military reserve for 999 years by the Commander-in-Chief to Mr. Clarke, adverted to in the memorial of Messrs. S. Street & Kirby, are not before the Committee, nor has it any other evidence of their existence, but it does appear from a report of the Surveyor-General that descriptions issued for licenses of occupation to Mr. James Secord and Mr. James Kirby, one of the Memorialists, for parcels of the said military reserve, under sanction of Your Excellency, which appears to be the direct inducement to the present application, as the committee presume upon the ground that an equitable if not legal possession having been yielded by their testator for public uses, the testator or his representatives should be preferred to all others when it ceased to be required for the public purposes to which it was devoted.

But the Committee cannot recommend to Your Excellency to admit any pretensions of the representatives of S. Street to any part of the reserve for military purposes, required either expressly for such or generally for the public.

*(Endorsement on Foregoing.)*

S. 60.

Draught of a report of the Executive Council on the representation of the executors of the late Samuel Street, Esq., 25th August, 1821.

The original report sent up to the Government Office same day.

This is a military concern and had no business to be sent to the Council: therefore, by the verbal request of Mr. Chief Justice Powell, the papers accompanying the reference of 22nd August, 1821, was sent up to Major Hillier, to be filed with the Governor's Military papers.

Report of a Committee of the Executive Council on the representation of the executors of the late Samuel Street, Esq.

Council Chamber at York.

SATURDAY, 25th August, 1821.

30 PRESENT:

The Chief Justice in the Chair, Mr. Baby and the Rev. Dr. Strachan.

To His Excellency Sir Peregrine Maitland, K.C.B., Lieutenant-Governor of the Province of Upper Canada, Major-General Commanding His Majesty's forces therein, &c., &c., &c.

May it please Your Excellency,

On the representation of the executors of the late Samuel Street, Esquire, the Committee of the Executive Council, to which your Excellency was pleased to refer the same have assiduously traced the pretensions to preference on the part of their

Important

testator or his representatives to occupy any part of the military reserve at Queenstown and agree to report :

That the military reserve in Queenstown was officially pointed out by the Chief Engineer, Colonel, now General, Mann, as necessary to the public service, when the transport from Lake Ontario to Lake Erie should be transferred from the east to the west side of the Niagara River.

That previous to this designation by the Chief Engineer the spot had been occupied by Isaac Dolson, under authority from Major-General Powell, some time commanding the Fort of Niagara and its dependencies, that this license does not appear, 10 and is only referred and recognized in an act by his successor Lieut.-Colonel Depyster, consenting to a transfer of possession from Isaac Dolson to Samuel Street and John McLauchlan, bearing date in August, 1784. This act describes the two parcels of land by metes and bounds, running from the river, and containing two hundred and six acres of land, without reserve, and declares the tenure to be changed agreeable to instructions for granting lands to settlers.

That upon the premises occupied by Dolson there were buildings, which were transferred to Mr. Street, by a subsequent transaction with Mr. McLaughlin.

That on a map of the Township of Niagara, part of the lands described in the act of Lieut.-Col. Depeyster is contained in the lots 2 and 3, which appear to have been 20 subsequently located by the Deputy-Surveyor Fry to Mr. Street, but do not embrace the broken front containing the military reserve, on which the buildings appear to have been erected.

That the landing for transport to the upper lakes being removed from the east side of the river, was established within the military reserve by Colonel Mann, and subsequently, on the division of the province into Upper and Lower Canada, Lieut.-Governor Simcoe, commanding also the forces in Upper Canada, took possession of the whole reserved by the engineer, and law proceedings were had by Mr. Street against the actual engineer on duty, in which a judgment appears to have recognized the military reserve as distinct from a just claim of Mr. Street, who, it also appears by 30 an Order in Council, accepted a grant of the two lots, two hundred and fifty acres, not comprehending the military reserve ; but retaining his pretensions by a protest to that effect. The leases of parcels of this military reserve for nine hundred and ninety-nine years by the Commander-in-Chief to Mr. Clarke adverted to in the memorial of Messrs. Street and Kirby are not before the committee, nor has it any other evidence of their existance, but it does appear by a report from the surveyor-general that the descriptions issued for licenses of occupation to Mr. James Secord and Mr. James Kirby, one of the memorialists, for parcels of the said military reserve, under sanction of your Excellency, which appear to be a direct inducement to the present application, as the committee presume upon the ground that an equitable if not legal 40 possession having been yielded by their testator for public uses, the testator or his

History of the Queen's Reservoir

representative should be preferred to all others when it ceased to be required for the public purposes to which it was devoted.

But the committee cannot recommend to your Excellency to admit any pretensions of the representatives of Mr. Street to any part of the reserve for military purposes required, either expressly for such, or, generally, for the public.

All of which is respectfully submitted.

WM. DUMMER POWELL, C.J.

(*Endorsement.*)

Report of a Committee of the Executive  
10 Council on the representation of the Ex-  
ecutors of the late Samuel Street, Esquire:

25th August, 1821.

## No. 62A.

DESCRIPTIONS IN LEASE FROM HIS MAJESTY TO CLARKE & STREET,  
AS APPEARS IN BOOK OF CROWN LANDS OFFICE, THE ORIGINAL  
NOT BEING FORTHCOMING, DATED 31ST AUGUST, 1827.

COPY OF LEASE DURING HIS MAJESTY'S PLEASURE, TO THOMAS CLARKE AND  
SAMUEL STREET.

31st August, 1827.

20 Commencing between Lots 128 and 129, at a point one chain west from the top of the Bank of the Niagara River ; then southerly and westerly along the top of the Bank of the said River, up the stream, and always at the distance of one chain from the top of the Bank, until it intersects the centre of Lot No. 145 ; then east to the waters edge ; then along the waters edge, down the stream, until it intersects the division line produced east from the division between Lots No. 128 and 129, then west to the place of beginning.

On margin : 5th March, 1829. Entered from the fiat obtained from the Secretary.

[*Vide Exhibit No. 62b.*]

*Lot 128  
So. West  
Bank  
129*

This Instrument is very much opposed  
to the Land thereon described being  
a Military reservation

Because this lease was not a Military Act  
or necessity - it was done to  
protect Clark & Heels use of the Ferry  
See Henry John Boulton's letter of 24 June 1833  
page 269 & 270 post

**NO. 62B.**

NOTICE, MESSRS. CLARKE & STREET TO WILLIAM FORSYTH, DATED  
14TH SEPTEMBER, 1827.

STAMFORD, Sept. 14th, 1827.

SIR,—On the 31st day of August now last past, a Lease, under the Great Seal of the Province, was made to us the subscribers, our executors, administrators and assigns, for all that certain parcel or tract of land situate, lying and being in the Township of Stamford, in the District of Niagara, which is butted and bounded as follows:—

- 10 Commencing in the limit between Lots numbers 128 and 129 at a point one chain west from the top of the bank of the Niagara River, then southerly and westerly along the top of the bank of the Niagara River, up the stream, and always at the distance of one chain from the top of the bank, until it intersects the centre of Lot number 145, then east to the water's edge, then along the water's edge, down the stream until it intersects the division line produced east from the division between Lots 128 and 129, then west to the place of beginning.

You will therefore take notice and forbear making any entry on the land above mentioned and contained, either by yourself or servants, as any trespass thereon after the date of this notice will be considered by us to be wilful and malicious on your part, and you will be liable to a prosecution from time to time, if any such trespass is committed by you or any other persons in your employ.

You will therefore govern yourself accordingly.

THOMAS CLARK,  
SAMUEL STREET.

To Mr. W. FORSYTH,  
Inn-keeper,  
Niagara Falls, Stamford.

**NO. 62C.**

COPY OF NOTES TAKEN AT TRIAL BY PRESIDING JUDGES OF TRIALS,  
30 5TH SEPT., 1827, KING vs. FORSYTH, AND 22ND SEPT., 1828, W. FORSYTH vs. LEONARD AND PHILLPOTTS, AND 5TH SEPT., 1834, CLARK & STREET vs. BONNYCASTLE.

WEDNESDAY, 5th Sept., 1827.

THE KING

v.

W. FORSYTH.

**INTRUSION.**

Augustus Jones.—Has resided in Canada forty years. Forty years ago this fall he surveyed the Townships of Niagara and Stamford; there had been previous surveys

<sup>E</sup>

5<sup>th</sup> Sept 1827 King v Forsyth <sup>Macaulay J</sup>  
<sup>see 305582</sup>  
22 Sept 1828 Forsyth v Leonard &  
Phillipps.  
9<sup>th</sup> Oct 1833 Clark & Street v Bonny Castle  
<sup>Sherwood, T.</sup> First Trial s. 3 old Series  
5 Sept 1834 Clark & Street v Bonny Castle  
528

# The top of the Bank defined by A Jones

Cutness

197

of Stamford, but not regular ones, only patches run out; is not sure whether any of the property now in dispute was surveyed. There was a base line passing the Falls. The land now in dispute is between that base line and the water. The base line ran parallel to the river with broken fronts. It commenced at the township line, northern boundary. (A plan shewn.) The base line goes directly through the township from north to south. Witness chained from the north side to the river and posted off a road for a Military Reserve four rods at the commencement of the township. There are eight concessions between Niagara and Stamford. In running towards the river witness posted off allowance for roads between each concession of

10 lots, and also left a chain on the top of the bank along the whole front of the township. The first line witness ran was between 144 and 145, Birches' Mill, parallel to the side line of the lot, i.e. from the base line to the race-way towards the river, run merely to shew where the mill race was. Witness says he never run down the bank till he got to Skinner's above defendant's, extended the side lines to the top of the bank from number 1 to beyond defendant's; did not always plant front posts to mark the fronts of lots, but marked the trees along the side lines. Marked the corners of the broken concession, giving allowance of one chain for road or reserve. The flat land was called the Table Rock. The top of the bank is the high land bounding the flats; it rises from the Chippawa; the land below the bank never was surveyed. The length 20 of 160: the north side is twelve chains from the base line to the top of the bank. Suppose it would be twelve or thirteen chains more from thence to the river. One of the twelve chains to the top of the bank witness considers the reserve. Number 159 is twenty-three chains from base line to top of bank; 145 is thirty-one chains, i.e. the north side. Witness was examined in Council with his map as to the survey of the township. The travelling in general was along the banks of the waters of the country. If the line of defendant's lot had been intended to extend to within one concession of the Table Rock and would be near twenty-five chains instead of twelve. -Witness's survey was before the division of the Province. Forty years ago it was impossible to make a road below the high bank at the Falls; is positive the

30 land below the bank was not intended as any part of the reserve whatever; has recently, with Captain Philpot, pointed out and surveyed the Mill Reserve, i.e. the one chain reserved on the top of the bank: commenced the survey at the south boundary of defendant's; not disputed; witness laid out, along the top of the bank, one chain, which is the chain intended as the Reserve in the original survey; told the defendant the shop and fence was on the Military Reserve; defendant claimed it as his the day before; defendant claimed the land all the way down to the river. Cross-examined—Has field book, notes, &c.; had a dispute about his survey, and upon re-examination found it correct; the Commandant ordered witness to run the line; Captain W. ordered witness to survey Stamford; witness was Deputy under 40 Fry; the base line runs south from the north side of the township within eight chains of Niagara; knows the chain was reserved from his having recommended it,

X See  
page 205  
deenser

Sex

(one)

For Butch's  
Location See  
Exhibit p 104

Adt 14 Sept 1885

Wm John

Reasons for Appeal  
F. B. G. Gen'ts v. A. Jones

18 Nov 1885

Watson

The Base Line

In 3 o.s. page 540 - Wiltshire Jones "The line from the stone  
"Boundary to the Beech Tree as mentioned by the other  
"Surveyors was reenact by him and to the true course  
"of the Base line, as he originally reenacted in 1787 or 8

Wiltshire chained from the north side to the river  
and posted off a Road for a ~~Reserve~~ <sup>Repitatory</sup> Reserve  
4 Rods.

At the commencement next of the Township  
There are 8 chains between Niagara  
and Stamford <sup>in</sup> running towards the  
River  
Wiltshire posted off allowance for roads  
between each row of lots

"36 chains"

"Common don't" probably explained at page 200  
line 23

and not including it in the settlers' lots, and by the King's deed~~s~~<sup>is</sup> was instructed in all his surveys to make necessary allowance for roads run the base line south by his compass; knows not the variation of the compass at the time; there was allowance for road along the base line; believes the road does not follow it; knows his own <sup>now</sup> blazes; describes his ~~line~~; knows of no blazed oak below the ~~hill~~, if there is any such it is not his. In the recent survey of the Reserve witness run by the bank, and according to the description of the grant; defendant did not forbid him going.

*See page 203*

Captain Philpotts.—Went with last witness to survey the Reserve; laid off a chain on the bank; defendant objected; had orders to lay off the Reserve; took 10 Jones, who originally surveyed it; requested defendant to remove his fences; he refused, and witness did it; afterwards saw the fences replaced on the Reserve, excluding the public from the run of it; witness remonstrated with defendant for replacing the fence; he did not deny having replaced it; the amount of witness's conversation was that if he did not remove, he, witness, should come up again; admitted the fence was put up again; witness went up again to move the fence; when witness arrived it was moved; did not see it done; witness then marked off the Reserve again; is now open; witness received orders to open it; was thrown open for the public, not for any exclusive Military use—to prevent any monopoly.

*1829  
see page 200*

*Sheriff*

Cross-examined—Is a Captain of the Royal Engineers; did not go with an armed force; had a fatigue party; were ordered to halt at Brown's; has no idea whether they had ball cartridge; received his orders from the Major-General commanding to open the Military Reserve; the party of men were quartered at Chippawa; they were on the way down from Chippawa to Fort George, and went as a fatigue party—not armed; knows the difference between a Military and Crown Reserve; first went up on the 18th May, afterwards on 23rd; does not say it was a Military Reserve; understood it was a Military Reserve; supposed it was reserved for a road—not fortification; opened the road, as far as the lots of defendant was concerned, as petitioned for; thinks the men had no ball cartridge; would not have used force if resisted; witness had everything removed from the Reserve as far as he could; 30 witness called on the Staff of the District to attend in order that there might be no breach of the peace; had no idea of using violence.

*to the Bank was  
always*

Hon. Thomas Clark.—Knows the place in dispute; has very frequently been down the Bank. The flats below the high bank are marshy and unfit for a Road. Would be very expensive and inconvenient to make a road below the bank. Formerly the water came up close to the foot of the bank; has seen the water up to it this Spring; has resided at the Falls many years. The top of the bank was always open to the public for upwards of thirty years, till defendant shut it up. Witness petitioned with others.

Cross-examined.—Witness went with Captain Philpotts to the water's edge and 40 there commenced. Defendant present; recollects no deed produced; they measured

*F See last Philpotts evidence at page 203*

*open*

je

...as

Thomas Clark pelleted (See P. Mallard)  
see also p. 267 p. 262

a chain from the water's edge. Witness showed Captain Philpots the description of the Elsworth lots; Jones not present; upon examining it Captain Philpots went to the top of the bank to lay off the chain; cannot —

WILLIAM FORSYTH

vs.

LEONARD & PHILPOTS.

Ass. 22nd Sept., 1828. Mr. J. Hagerman at Niagara.

Patent from Crown to James Forsyth, number 143, 144 and 146, north half 145, Township of Stamford, 308 acres, dated 31st December, 1798.

*isler* 10 Exam. Patent to Francis Elsworth of lot number 159, with the broken front between it and the Niagara River, north half broken front east of 160, and north-east part of 160, and south half broken lot 145, in the Township of Stamford Con., from Dickson to Forsyth, of lot number 159, with broken front between it and the Niagara River, the north half broken front east of lot number 160 and part of the north part of 160, patent to James Ramsay for lot 190 and 194, Stamford. Patent to Timothy Skinner of part of lots number 160, 173, 174, 175 and 176, Stamford.

Philip Bender, sworn.—Lives adjoining Mr. Forsyth's property nine or ten acres, where the still-house stands under the hill. Plaintiff has been in possession ever since he can remember. Boughner was in possession before Forsyth. The fence 20 has been removed to the top of the hill, which leaves this ground open to cattle. Always considered the line to be a chain from the lower bank next the Niagara River. Witness is in possession of the land below the upper bank on his farm; does not recollect that there was any fence on the land before Forsyth put one up; never understood from his father or grandfather that the line ran any where but on the lower bank.

John Wilson, sworn.—Son of the late Chas. Wilson, who resided formerly on the Elsworth property at the Falls; remembers his father had a still-house below the hill. The fence his father placed on the upper bank; he built the still-house; there was a road from the still-house to Street's mills, upon which he has driven a 30 waggon. The road was, and is, very bad, not very fit to be travelled.

Daniel J. B. Trumbly, sworn.—There is a road which he has hauled stone over, below the bank at Forsyth's. The road from still-house to Street's Mills is not fit to be travelled with a carriage.

John Misner, sworn.—Was coming from Chippawa; he heard Mr. Forsyth forbid Captain Philpots and Mr. Leonard from trespassing upon or interfering with his property in any way; they were going toward his fence and blacksmith shop. Has lived near the Falls for 33 years; the ground below the plaintiff's house was



then swampy; no road then except to get to Wilson's still-house; there was no fence below the bank until plaintiff put one. The fence on the upper bank was near the edge; always understood that the chain reserve was on the lower bank.

John Armstrong, sworn.—Was at Forsyth's in May, 1827, when Captain Philpots and Major Leonard came there accompanied by several soldiers. Witness was at work in the blacksmith shop with others; they were desired to take away their tools, as they were going to pull down the shop, this they commenced doing, and cut down the shop and broke off the boards; they also pulled down the fence and exposed plaintiff's garden; they were forbid by Forsyth; his fields all along the line were 10 exposed. When they were cutting down the fence, Major Leonard told them to dig up the posts, instead of cutting them off; the shop stood on the very edge of the upper bank; a good deal of the shop was cut down before the tools were removed.

down Misner (recalled).—The lower part of Forsyth's farm was exposed by the fence being thrown down (Meadow Land).

#### DEFENCE.

Variance in patent and description in new assignment; north half broken Lot No. 145 does not appear to be granted in the patent produced. Part of north Part 160, varies from northeast as described to be in the new assignment (question reserved).

Augustus Jones, sworn.—Is a Deputy Provincial Surveyor, has been employed 20 as such since '87; in that year and the following he surveyed Stamford which was the first regular survey; it was done by order of Government; a letter dated January, '92, from Mr. Collins acknowledges the plans of the Townships he had surveyed; (Copy of Instructions by General Haldimand to Surveyor-General's Department were here proved, a letter from Governor's Secretary to Surveyor-General and one from Surveyor-General to witness, produced, directing witness to bring plans, &c.) At a meeting with Lieutenant-Governor in pursuance of last letter witness pointed out that he had left a chain from the summit of the bank. Fault was found for not having left more; is certain the description in the deeds must have been taken from his plans—is certain he did not go down the bank at Forsyth's; he couldn't 30 have gone down; he could not have gone down for it was perpendicular—No surveyors could have gone down—his orders also precluded him—Was sent for by Surveyor-General to come down and assist the military officers to make a survey of the disputed ground. Witness told Captain Philpots that it had been reserved originally but perhaps Government had granted. Forsyth came to them when they were surveying; witness told him his shop was on the reserve and he had better remove it. He said he would not, but that he would prosecute if they interfered. The day before the shop was removed he promised to meet witness and Captain Philpots at Brown's on the subject of removing the shop—he did not come—Captain Philpots and party were an hour at Brown's before they went to the ground. Major Leonard took no



share in the business whatever. All that was done by Captain Philpots was done on the reservation—knows that it was so—he was very particular in pointing out the boundary.

(Copy of order from Land Board put in, proved and read, relative to chain above the bank as reservation for road—this chain.) The Table Rock now was considered as the bank; the survey was in the winter when he did not think it possible to go down the bank; his field notes prove that he did not descend it—Forsyth has his quantity of land chaining from the top of the bank. All the descriptions of lots put in point out a reservation of a chain.

- 10 ~~X~~ Did not swear at the last assizes that he had surveyed under the hill; if there was a stake there, it was not placed there by him. Surveyed recently from the patent.

Mahlon Burwell, Esq., sworn.—On Wednesday last was requested by Mr. Jones to trace the line of Mr. Forsyth's land; he did so and found the full quantity of land he was entitled to by the patent. Has no hesitation in saying that no surveyor would have described the bank in making reservation for roads; the reservation is made where a road can be established. If the bank had been described there would have been an excess of seven or eight chains over the description in Forsyth's deed. He was perfectly satisfied by his survey of the accuracy of Jones's line.

- 20 John Brown, sworn.—Went to reside on the lot adjoining Forsyth's in 1820; at that time the disputed ground was open; never knew it to have been previously closed; he closed it altogether three years afterwards, by which he interrupted access to the Falls from his house; the shop was placed at the very edge of the bank.

- Cowell Wilson, sworn. Came into the country in June 1787; was told by Mr. Skinner, Mr. Burch and others that there was an allowance for road on the top of the bank, and that the land occupied by the latter below the bank he could only get a lease for. It was impossible to make a road below the bank round the Table Rock. Heard Jones the surveyor about that period say that the allowance for road was on top of the bank. Skinner said he went within a chain of the river, but found he 30 did not.

Lanty Shannon, sworn.—Owns landed title above the Whirlpool; knows the land in question and that it was always open until Forsyth fenced it in; there is a bank in front of his lot; he is bounded within a chain of it. There is a second bank which is a bank of the river, and a flat between, which witness does not consider his land. Considers the reservation of a chain to be on the bank where Forsyth's house stands.

De Coe, sworn.—Thinks he was at Forsyth's when they began to remove the fence; Major Leonard did not take any part more than any other spectator.

Verdict for defendants.

~~Constitutive relation~~ 64

The First Trial in this cause, is reported  
in 30 Series p. 528 -  
The Following are the Notes of the New Trial

202

CLARK AND STREET *vs.* BONNYCASTLE.

COPY OF MR. JUSTICE MACAULAY'S NOTES.

TRESPASS—ISSUE.

FRIDAY, 5TH SEPTEMBER, 1834.

The Attorney-General moves to postpone the trial, upon an affidavit that Jones, a material witness, living near Brantford, who was caused to be subpoenaed (not stating where nor whether paid expenses), had written to him a letter received last evening wherein he intimated his intention of not attending, that the Attorney-General believed Jones was under some misapprehension that because he was not here the first day his attendance was unnecessary; that defendant could not go to trial without him, and could ensure his attendance in a few days.

This case, on Wednesday last, was appointed for to-day. It is at the head of the docket, which was enforced peremptorily yesterday in Crown cases against others, and I do not think sufficient ground is laid to put off the trial or to postpone it so as to open the docket to other suits which must be strictly dealt with. Yesterday one case was called, though a witness of plaintiff, a surveyor, was at the Falls surveying in this matter. Another, although plaintiff's witness, <sup>was</sup> the plaintiff in this suit, ~~was~~ absent at the Falls attending a view. Another, the defendant's witness, was recently subpoenaed and said he would be here to-day.

(sic)

20 The business cannot be carried on constantly without every diligence, and I feel it necessary, situated as I am, and the Bar not meeting each other by any consent, to proceed. If I ought to have delayed it or not, forms a subject of future consideration. The rights of the Crown depend upon an information which may be withdrawn. This is a private suit in which the Crown interferes collaterally—a *nisi prius* case, and to be governed by the same rules as others. Jones not being here on Tuesday ought to have been sent for on Wednesday, and brought here in time to-day.

ADMISSIONS of the trespass put in.

John Radenhurst.—Is clerk in S.G.O. Has Quebec plan. It is a copy of the original at Quebec. This copy is the original in Upper Canada. It is the plan by which the lots are described. It is usual to describe lots by the plans, measured by compass and scales. By this plan the Falls are laid down in front of 128, nearly a mile lower down or north of where they are. Nos. 159 and 160 and 145 are laid down as below the Falls. In front of 160 there is only one bank. There is no difference in the front N. and S.  $\frac{1}{2}$  of 145 or 159 or 160, except the windings of the river. Witness could say from that plan that below the Falls there is but one bank. Knows of no justices' orders, or otherwise, directing a reserve of more than one chain in depth from the bank of the river as laid down in the plan. There is nothing in the office to show a different front for the N. and S.  $\frac{1}{2}$  of 145. They are described alike. Never heard of any dispute till 1828. There is no difference in



the fronts of 145, 159, 160, as compared with the lots above and below; 160 is in its front N. and S. parts designated by different terms as river and bank; a chain understood to be the reserve. Do not know who made the original plan. Knows Bouchette's writing. Two plans are submitted, signed by Mr. Bouchette, who is Surveyor-General of Lower Canada. The contents of 145, N.  $\frac{1}{2}$  30 acres, S.  $\frac{1}{2}$  25 acres, by the Surveyor-General, under the assessment law. The Surveyor-General's calculations of quantities at rather less than more, allowing liberally for windings of water. The contents are ascertained from the plan; formerly the contents of B. Fronts were not returned by Surveyor. There are no field notes of Stamford; would refer to them in case of difficulty. No. 128 is the Bender lot. (Descriptions of lots, the Skinners, Forsyths and Ellsworth tracts, put in by consent.)

Captain Philpots.—Is a Captain of Engineers; has been long in Upper Canada; has had access to the military reserve. Referred to the Surveyor-General in 1827 and received a plan. The Surveyor-General's office keeps them; the Engineer office does not profess to keep any; they merely have reports from the Surveyor-General's office; was early employed in this case; met Clark, who took him to the Table Rock to measure off a chain. Witness, on seeing the plans, questioned the place; thought the reserve was on the top of the bank. It was not suggested by Clark, but he seemed to acquiesce in witness's idea; did not assent or dissent; there was then a fence down to the water of the river; the difficulty first arose in 1827, when witness obtained the plan; the dispute arose with Forsyth ~~X~~ supposes, the reserve was for a road, the usual purposes of a road. Witness would have a practicable one; in tracing up to the Table Rock it would be found ineligible, especially if the river above be examined. Witness being on the ground, and reading the Ellsworth description, inferred that the bank on which the reserve was made was the high bank.

*qu: Hagen* Daniel Hagen.—Came into Canada in 1786; knew Fry, a Deputy-Surveyor, employed by the Government, as witness always understood. Witness was employed by him, to assist in surveying and making plans; made plans of all. Surveyed Niagara No. 1, Stamford No. 2; made a plan of No. 2. The plans were sent to the Surveyor-General in Lower Canada. Fry was head of the Department up here—Jones worked under him—thinks Stamford was surveyed in 1787. Jones was surveying. Allan Macdonell surveyed before Jones—did not see him surveying, but presumes he surveyed all Niagara, part or all of Stamford, &c. Philip Bender, Forsyth & Ellsworth had settled before Jones surveyed or went there—and their lots were surveyed by some one before Jones went there. The front ~~lots~~ was one chain from navigable waters. Witness was a surveyor, and was so instructed to leave it.

*Cross-Examined.*—Witness was employed the year after Jones had surveyed; assisted in making the plan of Stamford. Witness only surveyed near the Falls for individuals, not for Government. Knew Ellsworth's plan; made no plan shewing



*ment*  
*call*

E's. tract to be above the Falls. The lots were numbered as surveyed ; Jones said Fry said the original survey was erroneous, and that he was to do it over again previous to grants. Understood McDonell had first laid out township ; Jones and Fry afterwards—all before the grants. Fry and Jones surveyed under the Governor to correct the survey. The original one was not adhered to. No grants made till Governor Simcoe came, several years after the Province was divided. Witness surveyed above Chippewa. Thinks Macdonell surveyed Stamford : all along the river front of Stamford. Macdonell's survey was considered as nothing, being deemed erroneous. Witness found no posts above Chippewa. Only surveyed lower down 10 for individuals after Jones and Fry.

The reserve was for a road ; would not make bends if the ground was broken.

Did not always adhere strictly to one chain ; below the Falls, would take a chain from the top of the precipice. Would calculate within one chain from the Falls the reserve opposite the Falls.

*and* *Re-examined*—Jones was employed under Fry. In his plan one chain all along, no more, was reserved.

*23*  
Haggy Cook.—Has since 1786 lived in Stamford. Knows the ground at the Falls well. Ellsworth, Bender, Forsyth first settled in front. Forsyth first clearing was below the upper bank, 200 yards below the present museum. Bender's also 20 below ; a tan yard was sunk below the Ellsworth at the upper end, near the S. boundary S.E. part ; witness's brother-in-law made it ; it was 40 years ago. After Jones's survey a road was made down the bank before 1798, began 1793, and the lessee of Ellsworth was bound to sink the yard and make a road.

*Baughner*  
John Murray.—Lived in Stamford 20 years ago, in '13. Has seen surveyor's stakes between Skinner's and Ellsworth's. Saw it 22 or 23 years ago. It stood near the river, below the interior bank ; pointed it out to Mr. Lewis Burwell and Mr. Fell. The stake was gone but the stones still there. There was another stake in the bank lower than the Table Rock. A road has since erased all trace of the place. The road witness alludes to, leads to some shanties on the Table Rock. Saw a stake below 30 Baughner's, near the edge of the lower bank, below the upper bank. It was near the line between Forsyth's and Ellsworth's, or Baughner's. Cannot recollect. Bender's front went to within one chain of the precipice ; has seen a post there. Has been along the upper bank frequently ; never saw a surveyor's stake there at all.

*Cross-examined*.—The stake between Ellsworth's and Skinner's was between lots. Never saw any stakes in the middle of the lot. The third stake of which witness spoke divided Forsyth and Ellsworth, or Baughner's ; cannot say the one ; erased by a road ; divided Ellsworths and Forsyth, or Baughner's. *Baughner* was in possession of lower part near the river ; only saw two stakes above Bender's. The stakes witness speaks of were called original boundaries. Thinks they were marked.

Evidence of user of load in 1893 4

Ellsworth  
Skinner?

*Mr. Doane*

Thomas Deane.—Lived at the Falls forty-eight years, and since was familiar with all the land about the Falls, knew the F. E. and ~~south~~ tracts; has seen stakes, supposed the original stakes, both marked and numbered. A stake between E. and S. stood below the high bank near what they call Skinner's Front: saw it many a time; was marked R. next river, with red chalk, with red figures on the sides, supposes the numbers of the lots; did not know the numbers of lots about the Falls. Saw another stake below where Wilson first built a still-house.

It was about 4 rods from the rivers edge, not between any two persons. Thinks it was in the Ellsworth tract, marking one of his lots, he owning on both sides; there 10 was another stake between E. & F. which witness saw repeated four rods from the high bank. And there is through Bender's lots so stood the stakes. The occupiers at first claimed the land up to 1 chain from the top of the precipice below the Falls, and 1 chain from the waters of the river, and improved accordingly. Witness was well acquainted with the first settlement. Knew the F. tract; there was a stake N. E. boundary of the F. tract. The Skinner tract was always taken to be below the high bank 1 chain from the water. Birch built a Mill, leased four rods of Government, and bought a portion of the flats from Skinner. Birch was a principal member of the Land Board. Witness lived with him a number of years. In early days could see traces of the surveyor's cutting through, in making the side lines, down the flat. The bottom between 20 Bender's and F. is half a mile wide to the precipice. Witness pointed out to Fell, the place where stakes stood which he had seen.

*✓*

John Misner.—Knew Falls 44 years ago; lived there; saw a stake just below the Table Rock, close to the precipice. Never seen a stake above the inner Bank. It was called the front of lot. Ws. pointed it out lately to Mr. Fell; is near the place; saw it 50 or 100 times; was marked with red chalk; there were lines running from the front stake up the bank, shewing the base line 44 years ago. Witness was called as a witness to one stake between F. and Bender's. Went and saw marked stakes on the precipice. The inner bank far behind. They made a brush fence up to the top of the high bank. Saw a stake one hundred yards or more lower down than the Falls. It 30 was rocky, stony piece of land. Knew where Baughner lived. The lower side of the E. tract below the inner bank, cleared below, 44 years ago; Birch then living there. Never heard till lately any disputes. The Flats were called the bottoms of F. E. & S.

*Trace*

*fresh*

Cross-examined. The stakes were first 44 years ago; the stakes were all pretty much the same. Knew of Jones' survey. It was ~~the~~ three years of Jones survey. Macdonell first surveyed it. Being disputed, Jones surveyed it afterwards. Did not see Macdonell's stakes in Stamford. He and Jones differed in the form of the stakes; those witness saw were Jones's or so considered, upon his the last survey.

Jonathan Caswell.—Knew Stamford 28 years ago; has seen where stakes were planted; one Skinner showed him between his and Ellsworth's, claimed by each 40 to be their boundaries, below the high bank, R. on one side, letters on the other, with

See page 197 for Jones evidence as to Birch's  
Mill  
see Stegmaier Map

*Harvie*

red chalk; saw a guide stake, above the high bank, said to be posted to make fence-lines. Saw no surveyors' stakes above the high bank. Saw another stake five or six rods below the Shanty near to the Table Rock, also a cedar tree four inches from it, marked R. on the river side, red chalk. Saw another near Baughner's stairs, dividing E. & F., the division part; shewed Fell the place where the same stood; marked R. with red chalk.

Lanty Shannon.—Once proposed buying the tract, in 1808 or 1809; heard of no dispute as to front; expected it was to within one chain of the water. Witness thought of buying on the S. end of the E. tract.

*by Harvie*  
10 Honourable Wm. Dickson.—Once owned the E. tract; Wilson bought of Ellsworth; an ejectment was brought against him by E.; E. won it, and it was appealed at last on Habrie. Witness bought the lot then; afterwards sold it. It was cleared below the bank; supposed it included the flats. There was a distillery, and Boughen clearing, &c., at that time, before the war, below the bank.

Robert Brooks, a juror.—Knew the tract 44 years. Saw stakes; one between S. & E. red chalked, four rods from the water, below the upper bank: shewed it to Mr. Murray; never heard of any stakes on the upper bank; helped to clear land himself below the upper bank.

Mr. McCormick.—Was Treasurer; produces the original book received under the 20 assessment law from S. G. O.; 145 Stamford, fifty-five acres. (Acres 30, N.  $\frac{1}{2}$  I. F.—Acres 25, S.  $\frac{1}{2}$  E.: 55.)

*E*  
*One*  
*front*  
? *survey*  
? *Chains*  
Charles K. Fell.—Is a surveyor; a stake at centre of 160, one chain from the river, was pointed out to him. Another, near S. E. angle of 159, joining 160; another at the N. E. angle of 159-145 within one chain of the upper bank, one chain from precipice; another N.  $\frac{1}{2}$  angle of 145, one chain from precipice. Stamford is laid out in concessions from E. to W. The concession lines were not generally run; the front angles of the lots on the east. Two boundaries were pointed out in rear: N. E. one chain from N. W. angle of 143, the other at S. E. angle of 158, in rear of 159. These marked point angles of lots in rear of the Ellsworth tract. Witness commenced at N. W. 30 angle of 159, and S. W. of 146, then to the high bank seventy-three chains, being parallel to Lundy's Lane; thence five chains ninety links to the precipice, in all seventy-eight chains ninety links. Came out near the place where a stake had been, and survey between 145 and 159. They run down through the Ellsworth tract. The distance from the top of the inner bank and one chain from the river on the S. limit of the E. tract, five chains fifty links, including the one chain reserved below, i.e. to the water. S. half of 145 contains twenty-six four-tenths acres according to present survey; if bounded by upper bank would be 15 $\frac{1}{2}$ . The N. half of 145, to the precipice thirty-one eight-tenths *Chains* to the upper bank, nineteen or twenty acres. The whole of the lot above the upper bank would be F. and witness operation received with stakes pointed out.



All the lots answer the distance and quantities in government deeds. An excess is to be expected ; the full lots 100 acres, 50 chains by 20 : the excess in broken fronts.

Lewis Burwell.—The plan produced is made by witness according to an actual survey ; distances and quantities correct, except that in calculating the contents of 145 he estimated it at twenty chains instead of allowing for the excess being seventy-three chains in the width of the lot, also including allowance for road between B and F and lots.

M. Ryckert.—Is a surveyor ; if upper bank bounds in the Ellsworth and below it in Skinner's, the Government descriptions will clash, and both cover about six 10 acres ~~of~~ the same termination to both ; no clashing can occur.

Dr. Lafferty.—Has lived long in Stamford ; never heard of any reserve, except along the river, until the dispute with Forsyth ; the interference of the defendant has impeded the Company, and suspended their operations—prejudiced sales ; had to go far for witnesses.

*Cross-examined.*—Does not know what the Government would not have done had the plaintiffs persisted ; witness would submit to a Government officer ; would expel an individual from his land ; would contest a right with the Government officer.

DEFENCE.—The Attorney-General makes no defence.

20 I ~~told~~ <sup>Told</sup> Survey—the original survey—should govern, if satisfactorily proved ; if not, that then the inference is to be drawn from the Government grants, the original plans, popular local features of the river and grounds, &c.

Verdict for plaintiffs, £100 damages.

## No. 63.

COMMISSION TO SIR JOHN COLBORNE AS LIEUTENANT-GOVERNOR,  
DATED 23RD AUGUST, 1828.

GEORGE THE FOURTH, by the Grace of God, of the United Kingdom of Great Britain  
and Ireland, King, Defender of the Faith.

To Our Trusty and Well-Beloved Sir JOHN COLBORNE, Knight Commander of the  
30 Most Honourable Military Order of the Bath, Major-General of Our Forces ;

### GREETING :

WE, reposing especial trust and confidence in your loyalty, integrity and ability, do, by these presents, constitute and appoint you to be our Lieutenant-Governor of our Province of Upper Canada, in America, in the room of Major-General Sir Peregrine Maitland.



To have, hold, exercise and enjoy the said place and office during our pleasure, with all rights, privileges, profits, perquisites and advantages to the same belonging or appertaining. AND further, in case of the death, or during the absence, of our Captain-General and Governor-in-Chief of our said Province of Upper Canada, now and for the time being, we do hereby authorize and require you to exercise and perform all and singular the powers and directions contained in our commission to our Captain-General and Governor-in-Chief, according to such instructions as he hath already received from us, and such further orders and instructions as he or you shall hereafter receive from us.

- 10 AND we do hereby command all and singular, our officers, ministers and loving subjects in our said Province to take due notice hereof, and to give their ready obedience accordingly.

Given at our Court at Windsor, the 23rd day of August, 1828, in the ninth year of our reign.

By His Majesty's Command.

G. MURRAY.

Major-General Sir JOHN COLBORNE,

To be Lieutenant-Governor of the

Province of Upper Canada.

20

## No. 64.

FURTHER PETITION OF WILLIAM FORSYTH WITH THE REPORT OF THE SURVEYOR-GENERAL, AND PROCEEDINGS AND ORDER IN COUNCIL THEREON, AND WITH RESPECT TO FERRY AND LEASE TO MESSRS. CLARKE AND STREET.

*Dated 16 Jan 1829*  
To HIS EXCELLENCY SIR JOHN COLBORNE, K.C.B., LIEUTENANT-GOVERNOR OF UPPER CANADA,  
AND MAJOR-GENERAL COMMANDING HIS MAJESTY'S FORCES THEREIN.

The memorial of William Forsyth proprietor of the Niagara Falls Pavilion and Ontario House and estate thereto adjoining.

Most respectfully sheweth :

- 30 That your memorialist has resided on the west bank of the Niagara river for the term of forty-five years.

That he was the first to establish and keep in operation a ferry below the Falls.

That he was the first to erect stairs for the convenience of travellers visiting the Falls by which they were enabled to go down to the margin of the river below the cataract.



16 Jan'y 1829 date of Form of Petition

That in front of his lands, and in front of all the farms along the river, there is a military reservation.

That a part of that reservation was leased to the late Isaac Swayze, Esquire, during the pleasure of the Government.

That your memorialist applied to Lord Dalhousie for a grant of so much of the military reserve as was in front of your memorialist's lands.

That his Lordship's reply is herewith submitted.

That the late Lieutenant-Governor, since the period of that application, has granted a letter of occupation of the narrow strip or reserve situate immediately 10 betwixt your memorialist's estate and hotels and the river, during pleasure, to the Honourable Thomas Clarke and Samuel Street, Esquire, who have forbid your memorialist from approaching the river in front of his own lands.

That your memorialist has been prosecuted, vexed, and grievously annoyed of late by prosecutions for having ferried across the river, although it is the great highway between the two nations; a monopoly of the ferry also having of late been given to the said Clarke and Street.

That your memorialist has laid out and expended on the Pavilion and adjoining grounds a very large sum of money, the value of the whole being, perhaps, not less than fifty thousand dollars, included in the hotels, coaches, stages, horses, etc.

20 That when a capitalist expends a vast sum of money in beautifying and adorning the environs of so extraordinary a wonder of nature as the Falls of Niagara he very naturally expects every encouragement and assistance that the Government has in its power to give—such an establishment being alike honorable to private enterprise and creditable to the Government and country which patronizes and supports it.

That your memorialist thinks it hard to have his front taken from him and given to another whose lands are not adjoining so as to benefit by the occupation. It is ten times as much injury to your memorialist as it can be of benefit to Clarke and Street. Even the very stairs which your memorialist has built and used for many years have been of late taken from him and given as a monopoly, and he is deprived 30 of the use of his meadows and the buildings thereon erected.

That your memorialist asks no peculiar privilege in front of his land, but merely wishes that the military reserve, instead of being converted into a monopoly for the benefit of speculating individuals, may be thrown open to the public—to him in common with all others the King's subjects.

That your memorialist encloses a certificate of character herewith and with the permission of Robert Randal, John Johnson Lafferty, William Woodruff and William Terry, members of the Commons House of Assembly of this Province for the County of Lincoln, begs to refer your Excellency to them for further information in his case.

The Earl of Dalhousie Governor of Canada  
19 June 1820 to 7 Sept 1828

Sir Peregrine Maletland was Lt Gov of N C  
13 Aug 1818 to 3 Nov 1828

May it therefore please your Excellency to cause an inquiry to be forthwith made into the statements hereinbefore offered for your consideration, so as that justice may be done, the military reserve in front of your memorialist's lands thrown open to the use of the public, and all other unfair obstructions and monopolies connected therewith investigated and ended.

And your memorialist as in duty bound shall ever pray.

WILLIAM FORSYTH.

York, January 16th, 1829.

(*Endorsements on the foregoing.*)

10 THE MEMORIAL OF WILLIAM FORSYTH NEAR THE FALLS OF NIAGARA. "F" 15, No. 54.

GOVERNMENT HOUSE, 5th February, 1829.

Referred to the Honourable the Executive Council.

By Command, Z. MUDGE.

28th February, 1829.

The Surveyor-General is requested to report on this petition.

J.B.

It is most respectfully submitted that a lease under the Great Seal has issued to the Honourable Thomas Clarke and Samuel Street for that part of the military reserve on the Niagara River, in the township of Stamford, near the Falls, "commencing in the limit between lots numbers 128 and 129, at a point one chain west of the top of the bank of Niagara River, thence southerly and westerly along the top of the bank of the Niagara River, up the stream, and always at the distance of one chain from the top of the bank, until it intersects the centre of lot number 145, then east to the water's edge, down the stream, until it intersects the division line produced east from the division between lots 128 and 129, then west to the place of beginning." The late Mr. Swayze has been entered on the map for part of the said reserve, commencing at the top of the cataract, thence upwards about sixty chains, but it does not appear that any description for license of occupation has issued from this office.

S. G. Office, 5th March, 1829.

30

W. CHEWETT,

*Acting Surveyor-General.*

Reference is respectfully requested to the O.C. of the 17th February, 1825.

S.G.O., 28th March, 1829.

W. CHEWETT,

*Acting Surveyor-General.*

IN COUNCIL, 2nd April, 1829.

Read the memorial of William Forsyth, proprietor of the Niagara Falls Pavilion, Ontario House, and estate thereto adjoining, in which it is stated: That he has resided on the west bank of the Niagara River forty-five years; that he was the first to

a Lease under the Great Seal 31 augt 1829  
See at page 195 &c N<sup>o</sup> 62 A

See Attorney General Henry John Boulton's letter  
of 24 June 1833 post page 269

" The Object of this Lease was to protect  
" the Lessees in the proper enjoyment  
" of their right of Ferry and to keep the  
" Share open and free of access to the  
" publice "

establish and keep a ferry below the Falls; that he was the first to erect stairs for the convenience of travellers visiting the Falls, by which they were enabled to go down to the margin of the river below the cataract; that in front of his lands and in front of all the farms along the river there is a military reservation; that a part of that reservation was leased to the late Isaac Swayze, Esquire, during the pleasure of Government; that he applied to Lord Dalhousie for a grant of so much of the military reserve as was in front of his lands; that his Lordship's reply is herewith submitted; that the late Lieutenant-Governor since the period of that application has granted a letter of occupation of the narrow strip or reserve situate immediately  
10 betwixt his estate and the hotels and the river, during pleasure, to the Honourable Thomas Clarke and Samuel Street, Esquire, who have forbid him from approaching the river in front of his own lands; that he has been prosecuted, vexed and grievously annoyed of late by prosecutions for having ferried across the river, although it is the great highway between the two nations; a monopoly of the ferry also having of late been given to the said Clarke and Street; that he has laid out and expended on the Pavilion and adjoining grounds a very large sum of money, the value of the whole being perhaps not less than fifty thousand dollars, including the hotels, coaches, stages, horses, etc.; that when a capitalist expends a vast sum of money in beautifying and adorning the environs of so extraordinary a wonder of  
20 nature as the Falls of Niagara, he very naturally expects every encouragement and assistance that the Government has in its power to give, such an establishment being alike honourable to private enterprise and creditable to the Government and country which patronizes and supports it; that he thinks it hard to have his front taken from him and given to another whose lands are not adjoining so as to benefit by the occupation; it is ten times as much injury to him as it can be of benefit to Clarke and Street; even the very stairs which he built and used for many years have of late been taken from him and given as a monopoly to others, and he is deprived of the use of his meadows and the buildings thereon erected; that he asks no peculiar privilege in front of his lands, but merely wishes that the military reserve, instead of  
30 being converted into a monopoly for the benefit of speculating individuals, may be thrown open to the public, and to him in common to all others the King's subjects.

Read also the report of the Acting Surveyor-General thereon, dated 5th day of March, 1829, whereupon the following minute was made, to which is added the opinion of His Excellency, Sir John Colborne, Lieutenant-Governor:—

The Council do not consider themselves called upon to express an opinion relative to the right of ferry within questioned, as the subject has been judicially disposed of by the courts of justice. With respect to the lease of the said ferry to Messrs. Clarke and Street, it appears to have been granted by the Executive Government upon terms calculated to prove highly beneficial to the public.

40 As to the lease of one chain on the top of the bank granted to them during pleasure by letters patent under the Great Seal, bearing date the 31st of August, 1827,



the Council are not convinced of the expediency of such indulgence, nor can they recommend that it should be continued.

The Council do not observe that any other part of Mr. Forsyth's representation calls for report.

J. BABY, *Pres'g. Ck.*

The Lieutenant-Governor is of opinion that a certain extent near the ferry should be granted to Messrs. Clarke and Street; but that the one chain on the top of the bank should be thrown open to the public for a road, with the understanding that it may be necessary to withdraw this indulgence should the ground be required  
10 for military purposes.

J.C.

IN COUNCIL, 4th May, 1829.

The Council fully concur in the opinion of His Excellency that one chain on the top of the bank should be thrown open to the public for a road, with the understanding that it may be necessary to withdraw the indulgence should the ground be required for military purposes.

J. B., *Pres'g. Ck.*

Sent a statement of this petition and copies of the minutes of 2nd April and 4th May, 1829, to the Acting Surveyor-General.

J.C.

9th May, 1829.

20

## No. 65.

REQUEST FROM MR. MUDGE, LIEUTENANT-GOVERNOR'S SECRETARY,  
TO SURVEYOR-GENERAL FOR DESCRIPTION OF A PORTION OF  
MILITARY RESERVE, AND DESCRIPTION FURNISHED ATTACHED  
THERETO, DATED 28TH OCTOBER, 1829.

Mr. Mudge's compliments to the Surveyor-General, and will thank him to forward to this office a description of the Military Reserve on the Bank of the Niagara, between Mr. Forsyth's property and the river, and to state if the reserve now under lease of occupation to Messrs. Clarke & Street will interfere with the above description.

30 GOVERNMENT HOUSE, 28th Oct., 1829.

*Endorsed.*

28th October, 1829.

From Mr. Secretary Mudge requiring a description of the Military Reserve between Mr. Forsyth's property and the river, in the Township of Stamford.

28th October, 1829.

## No. 64 A.

TO THE RIGHT HONORABLE THE EARL OF DALHOUSIE, GOVERNOR-IN-CHIEF IN  
AND OVER BRITISH NORTH AMERICA, ETC., ETC.

NIAGARA FALLS PAVILION,

16th December, 1826.

MY LORD:

The only apology I can offer unto Your Lordship for this letter and the respectful request it contains, is the deep interest I feel concerning the future disposal of the small strip of land (one chain wide) in front of my property here, commonly called the military reservation.

10 A report has obtained credence here that many applications have been this season made to Your Lordship for a grant or lease of the above reserve, and as it is the only bar between my lands and the Cascade, I feel the utmost anxiety to ascertain whether it is yet undisposed of by His Majesty's Government.

I have been at a very great expense indeed—unequalled in this new country—in rendering my Pavilion, or hotel, a place worthy of fashionable resort, whereat visitors of rank and distinction may always have suitable accommodations, while they remain at the Fall. I have this year added many and expensive additions to my house, and if its situation is taken into consideration, it is perhaps the most splendid establishment of the kind at this day in North America.

On that military reservation, which I have now a fear of losing, I have made a road and stairs 20 whereby visitors to the Falls can with ease descend to the margin of the river below the cataract. I have been for forty years in quiet and undisturbed possession of it, and would wish next spring to construct a new and more convenient descent to the margin of the river.

I have ever had a great desire to add to the unrivalled natural beauties of the wild and romantic scenery in the midst of which I dwell, by suitable walks, stairs, openings and arbors on that reserve, and as it is in front of my land, as it is by far more valuable to me than to any other person, seeing I have expended perhaps not less than \$25,000 on the lands adjoining, inclusive of their first cost, and all this for the accommodation of the public from all nations, I would most respectfully request that if a license of occupation is to be granted I may have the first offer, a preference, on the same conditions and subject to the same restrictions as another would be; or that if an actual grant will be made 30 that he who has for forty years, or indeed from the first settlement of the Colony, held quiet possession may have some chance of continuing to possess—or that if Your Lordship has already granted the reserve to another, I may know that fact, in order to desist from improvements upon a spot from which at any moment I may be dispossessed.

I am with the greatest respect,

My Lord,

Your Lordship's most humble and obedient servant,

WM. FORSYTH.

*(Indorsement).*

Inform Mr. Forsyth at Niagara that I do not suppose Sir P. Maitland, Comr. in the Upper 40 Province, would grant to any other person the occupation of a strip of land so immediately convenient to his buildings. I do not believe there is any intention of granting it because reserved expressly for public purposes, free from the exclusive control of any person. When last I was at Niagara I made a request of it on behalf of Mr. F. but Sir P. gave good reasons against it.





*Important  
as and serves water*

Description of Military Reserve on the west bank of Niagara River in front of lots number 144, 145, 159 and 160 in the Township of Stamford, supposed to be in front of Mr. Forsyth's property, that is to say :—

Commencing in the limit between lots number 129 and 144, at the distance of one chain from the top of the bank of the Niagara River ; then southerly, always at the distance of one chain from the top of the said bank, to the limit between lots number 160 and 174 ; then east one chain to the top of the bank aforesaid ; then northerly, along the top of the said bank, to the limit between lots number 129 and 144 ; then west one chain to the place of beginning.

10

W.M. CHEWETT,

*Acting Surveyor-General.*

By Order from the Lt. Governor's Office, 28th Oct., 1829.

See written Des. No. 7559. Description number 115.

Surveyor-General's Office, York, 28th October, 1829.

Sent to the Governor's office, for what purpose not known.

## No. 66.

FURTHER REQUEST FROM MR. SECRETARY MUDGE TO SURVEYOR-GENERAL FOR DESCRIPTION OF A PORTION OF MILITARY RESERVE, AND DESCRIPTION FURNISHED, DATED 9TH NOVEMBER, 1829.

20 1829.

Mr. Mudge presents his compliments to the Acting Surveyor-General and will thank him to describe that portion of the Military Reserve marked yellow in the accompanying plan, and also to state whether there is any document in the Surveyor-General's Office to show that Mr. Isaac Swayze has a license of Occupation of any part of the Reserve as marked with his name in the plan.

Government House, 9th Nov., 1829.

M. 9th November, 1829.

From Mr. Secretary Mudge requiring a description of a certain part of the Military Reserve, Township of Stamford, situate between that under License of Occupation to Mr. Clarke and that to Mr. Swayze coloured yellow, a copy of the plan of which has been taken, 9th November, 1829.

Mr. Chewells description of the Military Reserve is one chain on the top of the Bank. (See also next page)

See the distinction in the Licensee to Clark Street - as set out at page 210 by Mr. Chewell. - The Licensee to them was to the Watersedge.

Therefore below the Barkele was no part of the Reservation if there was any.

Description of that part of the Military Reserve on the Niagara River in the Township of Stamford, in the County of Lincoln, in the District of Niagara, in front of lot 159 and the southerly half of lot number 145 in the said Township of Stamford and coloured yellow on the accompanying plan, that is to say :—

Commencing on the top of the bank of the Niagara River, in the limit between lots numbers 159 and 160 ; then northerly, along the top of the said bank, to the centre of lot number 145 ; then west one chain ; then southerly, always at the distance of one chain from the top of the bank, to the limit between lots number 159 and 160 aforesaid ; then east one chain to the place of beginning.

10

W.M. CHEWETT,

*Acting Surveyor-General.*

Warrant No.

S. G. O. fiat No.

C. O. No.

Description No. 114.

R. G. O. No. See written Des. No. 7560.

A. G. O. No.

Surveyor General's Office, York, 9th Nov., 1829.

Sent to the Governor General's Office not known for what purpose.

Observe this description confines the chain  
to the top of the Bank.

**No. 67.**

LETTER FROM ACTING SURVEYOR-GENERAL CHEWETT, TO MR. SECRETARY MUDGE REGARDING THE MILITARY RESERVATION AT NIAGARA, DATED 12TH APRIL, 1830.

SURVEYOR-GENERAL'S OFFICE, YORK, 12th April 1830.

To Lachl'n Mudge, Esq., Secretary, &c. to His Excellency :

SIR,—In obedience to His Excellency the Lieutenant-Governor's commands of the 8th instant, when His Excellency was pleased to put into my hands two letters, one from Sir George Murray of the 29th December, 1829, and the other (a copy) from the 10 Master-General and Board of Ordnance dated the 2nd of said month, relative the Military reservation at Niagara, and to report to His Excellency thereon, and which are herewith returned :

I have the honour to state to you, for the information of His Excellency, that having made due search I found in the Land Board Book of the District of Nassau an extract of a letter from His Excellency General Haldimand directed to Colonel Depeyster, dated 29th March, 1784; a letter from Mr. Humfrey of the Royal Engineers, to Mr. Fry, a surveyor; and a letter from Mr. Fry to Lieutenant-Colonel Hunter, then commanding at Niagara, dated 9th October, 1788, herewith enclosed.

I have also the honor to submit the following plans in elucidation to the afore-20 said Military Reservation :

*This is all  
the Town  
of Niagara*  
*Plan No. 1.*—Showing the original extent of the said reservation and what now remains thereof.

*Plan No. 2.*—Showing the Tract at Mississauga Point, transferred to the Ordnance Department by Mr. James Crooks (memo. being an original by Captain Vavasour, of the Royal Engineers.)

*Plan No. 3.*—Showing the land in the Military Reservation given in exchange by the Ordnance Department to Mr. James Crooks (memo. being an original by Captain Vavasour, of the Royal Engineers.)

I have the honor to be, Sir,

Your most obedient servant,

W. CHEWETT,

*Acting Surveyor-General.*



J. G. Chewett the  
30.539 thinks the  
reserve of a chain called  
the military reserve keeps  
at the top of the highest land  
all along the premises granted  
to Ellsworth and above  
and never below them

## N STATEMENT OF SURVEYOR-GENERAL CHEWETT

STATEMENT of the Military Reservations in the Province of Upper Canada under the following heads

Reservation and Where Situated.	When Reserved.	By Whom Proposed or Made.	By What Right
Malden, Western District.....	About 1797 .....	Colonel Mann, of the Royal Engineers.....	A plan signed A. Tredell.....
Chatham do .....	2 August, 1795.....	Mr. Smith, Surveyor-General.....	
At the Mouth of the Grand River, Niagara District.....			Order in Council.....
Fort Erie.....	Soon after the Peace in 1783.....		A Quebec plan without date, under direction of the La
On each side of the Mouth of the River Welland, Niagara District.....		Capt. Mann, Royal Engineers.....	A plan signed Gother Mann,
One chain along the Niagara River, from the Mouth of the Welland to Queenston.....			Being a Reservation in all the of the River.
Queenston, Niagara District.....	Soon after the Peace in 1783.....		A Quebec plan signed A. Jon of the Land Board.
Niagara and Mississauga Point .....	11 June, 1787.....	By Major Campbell, of the 29th Regiment.....	By extracts of a letter from Lieut. Colonel Depuyster
York, Home District.....	Supposed in 1792 or 1793.....	By His Excellency Lieut. Governor Simcoe.....	By various plans supposed to His Excellency Lieut. Go Order in Council.
Green Point, Bay of Quinty.....	5 January, 1802.....	Mr. Smith, Surveyor-General.....	A sketch.....
Kingston, Old Fort Frontenac; Garrison Garden; Hospital; Indian Store House; and Commandant's Quarters.			A plan signed A. Aitken, un Land Board.
Kingston, Mississauga Point, and in front of the Market Place.	21 October, 1815 .....	By virtue of a verbal Order of His Excellency Lieut. Governor Gore.	Order in Council .....
Points Henry and Frederick.....			General Haldimand and Lieu letters to the Surveyor gen eral, Quebec.
Penetanguishine "A" .....			Order in Council. Military ar
do "B".....		Supposed verbally by His Excellency Sir P. Maitland	None to be found.....
do "C".....	Supposed in 1818.....	By Commodore Hall .....	By order of His Excellency Si Governor, for the Naval Commodore Barrie.

SURVEYOR-GENERAL'S OFFICE,

532

YORK 29th April, 1830.

(See Letters to Heads of Depa

Ex N° 68 page 216

68.

MILITARY RESERVATIONS IN UPPER CANADA.

they appear on the Plans and Records in the Office of the Surveyor-General of the said Province.

Date of the Record.	Original Contents in Acres.	Present Contents in Acres.	How Altered from the Original Number of Acres.	The Authority Under Which the Alteration Took Place.
24 July, 1797.	Ab't 420	Ab't 300	{ 34 by grant to Capt. Caldwell..... 86 " Town of Amherstburg.....	Order in Council, 22nd February, 1810. " " 19th November, 1819.
1795.	" 8	" 8		
4 Oct., 1820.	"	286		
25 Oct., 1791.	Ab't 1,300	" 1,300		
Engineers .....	No date .....	" 11	" 11	
along this part	.....	" 100	" Chiefly under License of Occupation.	
the direction	No date .....	" 100	" 100 { 561 the Town of Niagara .....	By order Deputy Surveyor-General of Quebec, 12th February, 1791.
Haldimand to	29 Mar., 1794.	" 4,200	3,012½ to sundry persons.....	Under various authorities from 1794 to 1805, inclusive.
.....		" 600	22 to James Crooks in exchange for 40 Mississauga Point. 4½ to Charles, Lord Bishop of Quebec, and others, in trust.	Under an Order in Council, dated 16th April, 1823.
.....	" 1,000	" 728	{ 22 Grant to Wm. Halton..... 10 " Jno. McDonell..... 240 " James Brock.....	Attorney-General, Fiat dated 20th May, 1829. Order in Council, 19th April, 1808. " " 20th November, 1810. " " 17th March, 1812.
rection of the	No date .....	" 30	Ab't 30	Order from His Excellency Sir P. Maitland, Lieut. Governor, dated 17th September, 1818.
.....	28 Aug., 1818.	" 3	" 3	
or Hamilton's	11 Sept., 1783.	"	600 Supposed to be engraved on by Lot A in the East.	
urveyor Gen-	22 May, 1785.			
Establishment	16 April, 1818.	Ab't 1,857	" 1,857 A.	
.....		" 2,449	" 2,449 B.	
borne, Lieut.	3 Sept., 1829.	" 468	" 468 C.	
ment under				

(Signed)

W.M. CHEWETT,  
Acting Surveyor-General.





## No. 69.

PETITION OF GEORGE BENDER, WITH REPORT OF SURVEYOR-GENERAL CHEWETT AND CAPTAIN PHILLPOTTS, AND PROCEEDINGS OF COUNCIL THEREON.

To His Excellency Major-General Sir JOHN COLBORNE, Lieut.-Governor of the Province of Upper Canada, &c., &c., &c.

The petition of George Bender, of the Township of Stamford, sheweth,

That by order of the Government, an officer of the Corps of Royal Engineers was, on the 21st instant, occupied in making out a survey, or making out the supposed boundary of the King's property between a part of the farm of the petitioner and the Niagara River; that in so doing the said officer has encroached upon that part of petitioner's farm which, according to the deed in possession of petitioner, does of right belong to him. Petitioner, placing every reliance in the justice of the Government, prays that Your Excellency will be pleased to cause a survey of the property (as originally granted) to be made, in order that the portion of the farm now claimed by the Government may be restored to petitioner, should it be proved by such survey that petitioner's claim is just.

And petitioner, as in duty bound, will ever pray.

GEORGE BENDER.

20 NIAGARA FALLS, July 23rd, 1831.

*(Endorsements on the Foregoing Petition.)*

July, 1831.

Petition of George Bender, Falls of Niagara.

GOVERNMENT HOUSE, 30th July, 1831.

Referred to the Surveyor-General to report hereon for the information of the Lieut. Governor.

By Command.

E. McMAHON,

*Acting Secretary.*

80

SURVEYOR-GENERAL'S OFFICE,

YORK, 1st August, 1831.

SIR,—In obedience to His Excellency the Lieut. Governor's commands of the 30th ultimo, to report upon the petition of George Bender, of the 25th ult., who therein states "That by order of the Government an officer of the Royal Engineers was, on the 21st instant, occupied in making out a survey, or making out a supposed boundary of the King's property between the farm of the petitioner and the Niagara River. That, in so doing, the said officer has encroached upon that part of the petitioner's farm which, according to the deed in possession of the petitioner, does of right belong to him." The petitioner, however, doth not point



out the lot or lots upon which such encroachment has been made; neither doth he mention the extent of the same.

I have, therefore, the honour to state to you, for the information of His Excellency, that having examined the descriptions by the former Surveyor-General, Mr. Smith, of the several lots granted to Philip Bender, the original nominee (who is supposed to be the father of the said George Bender), viz.: Lots numbers 111, 127, 128 and 129, with a small quantity of broken land, containing together about three hundred and ninety acres, in the Township of Stamford, situated near to the Falls of Niagara, I find that a reservation has been made therein, of one chain from 10 the top of the bank of the Niagara River along and in front of lots numbers 111, 128, and the broken land in front of lot 129 aforesaid, which reservation no doubt will be found engrossed in the patent for said lots to the original nominee, Philip Bender; and in further confirmation of the same, you will receive herewith a copy of said description.

I have the honour to be, Sir,  
Your most obedient humble servant,

W. CHEWETT,  
*Acting Surveyor-General.*

To EDW. McMAHON, Esq.,  
20 Acting Secretary to His Excellency  
The Lieut. Governor, &c., &c., &c.

*Enclosure with Report of Surveyor-General.*

PHILIP BENDER, Stamford, Co. of Lincoln.

Commencing at the south east angle of lot number 110, at the distance of one chain from the top of the bank of the Niagara River, thence west to within one chain of lot number 112 (fifty-three chains more or less), thence south twenty chains, thence west fifty-one chains, thence south forty-one chains, thence east to within one chain of the top of the bank aforesaid, and thence along the bank (with the stream of the river), always at the distance of one chain from the edge thereof, to the place of 30 beginning, being lots number 111, 127, 128 and 129, with a small quantity of broken land, containing about three hundred and ninety acres, with an allowance for roads, for which fifty-five and five-seventh acres, as per general specification.

8th August, 1796.

With two Land Board  
Certificates, No. 1317.

(S'd) D. W. SMITH,  
*Acting Surveyor-General.*

A true copy.

SURVEYOR-GENERAL'S OFFICE,  
YORK, 1st August, 1831.

W. CHEWETT,  
*Acting Surveyor-General.*



## ROYAL ENGINEERS OFFICE,

YORK, 29th November, 1831.

SIR,—With reference to Mr. George Bender's petition of the 23rd July last, which you referred to me by direction of His Excellency Sir John Colborne, I have the honour to acquaint you, for the information of His Excellency, that having surveyed the boundaries of Mr. Bender's farm, in company with Mr. James G. Chewett, we have found that the ground previously marked out by me for the Military Reserve, as alluded to in Mr. Bender's petition, does form a part of his farm, being lots numbers 111, 127, 128, and 129 on the Niagara River.

10 We have also found that the ground marked out by me on the farm originally granted to Mr. James Forsyth on lots number 144 and north half of 145 belongs to that farm; but there is nevertheless a reserve of one chain in front of both these farms, measuring from the top of the lower bank, as shown by the plan drawn by Mr Chewett.

With regard to the reserve in front of the next farm commonly called "the Ellsworth farm," being the south half of lot number 145, the whole of lot number 159, and the north half of 160, we are decidedly of opinion that it was originally measured from the top of the Upper Bank, which indeed is the only bank in front of a great part of this farm, as will be most clearly seen by examining that part of the 20 plan on which it is particularly described. And in order to prevent further litigation on the subject, and future encroachment on this reserve, I take the liberty of suggesting that instead of placing boundary stones to mark this ground, the chain on the top of the upper bank may be given over as a public highway, so that statute labour may be performed upon it, which will be a more effectual mode of securing it than any other.

I have the honour to be, Sir,

Your most humble obedient servant,

GEORGE PHILLPOTTS,

*Captain, Royal Engineers.*

30 EDWARD McMAHON, Esq.,

Acting Secretary, &c., &c.

(*Endorsements on the foregoing document.*)

29th November, 1831.

Report of Captain Phillpotts Royal Engineers, on the claim of George Bender, respecting the line of boundary of his land near the Falls of Niagara.

GOVERNMENT HOUSE, 4th June, 1832.

Referred to the Honourable the Executive Council.

By Command,

E. McMAHON,

*Acting Secretary.*

Plan  
No 5



With petition of George Bender of 23rd July, 1831.

IN COUNCIL, 28th June, 1832.

Recommended as suggested by Captain Phillpotts.

J. B.

*Pr. Clr.*

J. C.

EXECUTIVE COUNCIL, YORK, 4th July, 1832.

SIR,—Your petition respecting the boundary line of your land near the Falls of Niagara was read in Council on the 28th ultimo, when an order was made thereon and approved by His Excellency the Lieutenant-Governor, which order has since been sent to the Surveyor General at whose office you, or your agent in person, on application, will receive the necessary information for your guidance with respect to the said boundary line.

I have the honour to be, Sir,

Your obedient servant,

JOHN BEIKIE,

*Acting Clerk, Executive Council.*

MR. GEORGE BENDER,  
Township of Stamford,  
District of Niagara.

## No. 70.

LETTER FROM DEPUTY SURVEYOR MAHLON BURWELL TO ATTORNEY-GENERAL JAMESON REGARDING RESERVE ADJOINING FALLS OF NIAGARA, AND LETTER FROM ATTORNEY-GENERAL JAMESON TO LIEUTENANT-COLONEL ROWAN, SECRETARY TO LIEUTENANT-GOVERNOR.

COURT HOUSE, NIAGARA, 11th October, 1833.

SIR,—In reference to your request of this day that I should furnish you with a copy of the map of the tract of land in Stamford granted by His Majesty's Government to Francis Ellsworth, made by Mr. Jones and myself in September, 1828, and submitted to the petit jury yesterday, and, as you have informed me not returned by them to the Court, I beg leave to inform you that it is not in my power.

In the event of my not being able to furnish the copy, you requested my opinion as a surveyor, as to what method the rights of the Crown to the reserve adjoining the Falls of Niagara could most clearly be shown. I beg leave to state my opinion that two of the surveyors who were examined on the part of the plaintiffs in the case



which has just been decided, and who produced, upon the trial, a map embracing a considerable quantity of the lands which lie contiguous to the tract in question, did not appear to me to be aware of the difference in the manner in which the Township of Stamford was originally surveyed by Mr. Jones in the year 1788, and the manner in which most of the Townships in the Province subsequently laid out have been surveyed. The practice in the former case, and in that of some other Townships surveyed by Mr. Jones, was to produce the side lines to within one chain of the intersection with the top of the bank, or to within one chain of the river as might be required, and in the latter instances to produce the concession lines across the centre 10 width of the Townships, without producing any of the division lines between the several lots. The former was evidently the practice of Mr. Jones in the survey of Stamford, as appeared upon the ground, and the original memoranda in his possession, and shown to me by him when we surveyed the Ellsworth tract together in 1828. The original survey being in the manner above described, the angles of the several lots in the different ranges through Stamford are not, as they appear upon the ground and could not be expected to be, in continuous straight lines through the Township; hence it is, that the gentlemen to whom I have alluded were mistaken in their practice, because they produced a straight line through the Lundy's Lane in the direction of the stone boundary at No. 218, and the marked beech tree which was given in evidence—this practice made the surveyors in question approach too near to the Niagara River, and in my opinion led to the present verdict; and would go to remove all the boundaries in the Township which do not correspond with the direction of the stone monument and the beech tree, although they are already established by law, and that eight out of ten of those angles would differ from that direction or bearing I am fully aware.

My opinion is, that if His Majesty's Government were to send a surveyor upon the ground with orders to produce picket lines in the direction of the monument and the tree through several ranges of lots connected with, above and below to the west of the tract in question, and to note upon their map, and in their report, the 30 relative corners and distance from the angles they found, with the angles of the several lots as they are situated upon the ground, and are established by law, the fallacy of such a mode of practice in a surveyor would be so palpably evident that a jury could not be mistaken.

I have the honor to be, Sir,

Your most obedient servant,

ROBERT S. JAMESON, Esq.,

Attorney General, &c., &c., &c.

Copy.

M. BURWELL,

*Deputy Surveyor.*

GOVERNOR GENERAL'S OFFICE, Nov. 1st, 1833.

40 SIR,—I have the honor to state for the information of His Excellency the Lieutenant Governor that the action brought by Messrs. Clark and Street against Captain



Bonnycastle for an alleged trespass, in taking possession, on behalf of the Crown, of the military reserve on the bank of the River Niagara, was tried on the 10th of October at the assizes for the District of Niagara—and a verdict given for the plaintiffs

I have little doubt that the verdict will be set aside as being against evidence, and a new trial granted by the Court of King's Bench. I mean, therefore, with His Excellency's permission in the ensuing term

One of the principle causes to which I attribute this verdict is the fact that the survey procured by the plaintiffs and exhibited to the jury was upon principles quite different from those on which were made the original survey in 1788 upon which the patent of the first grantee, Ellsworth, issued. In explanation of this fallacy I enclose a letter from Mr. Burwell, and in exact accordance with his are the opinions of Mr. Chewett. As this is a question of great importance in principle, I would respectfully urge that the suggestions of Mr. Burwell should be adopted before this case is again submitted to a jury.

I have the honour to be, Sir,

Your obedient and faithful servant,

LIEUT.-COL. ROWAN,

Secretary to His Excellency,

The Lieutenant-Governor.

ROBERT S. JAMESON

*Attorney-General.*

20

## NO. 71.

EXTRACTS FROM PROCEEDINGS OF LEGISLATIVE ASSEMBLY OF UPPER CANADA UPON MOTION OF MR. BURWELL FOR A COMMITTEE TO EXAMINE INTO THE NATURE AND EXTENT OF RESERVATION ORIGINALLY SET APART AT THE FALLS OF NIAGARA.

EXTRACT FROM THE JOURNALS, 1833-1834, OF THE LEGISLATIVE ASSEMBLY U. C.

THURSDAY, 21st November, 1833.

Page 11.

Mr. Burwell gives notice that he will, on Tuesday next, move for the appointment of a Committee, to examine into the nature and extent of the reservation originally set apart by His Majesty's Government, for the use of the public, adjoining the Falls of Niagara, in the Township of Stamford, and bounded by the tract granted to Francis Elsworth, in that township, in the year 1798, with power to send for persons and papers, and to report thereon to this House.

WEDNESDAY, 4th December, 1833, ~~1834~~

Page 28.

Agreeably to notice, Mr. Burwell, seconded by Mr. Thomson, moves that Messieurs Boulton and Merritt, be a Committee to examine into the nature and



extent of the reservation originally set apart by His Majesty's Government for the use of the public, adjoining the Falls of Niagara, in the Township of Stamford, and bounded by the tract granted to Francis Elsworth, in that township, in the year 1798, with power to send for persons and papers, and to report thereon to this House.

Ordered.

REPORT OF SELECT COMMITTEE ON NIAGARA FALLS RESERVATION.

Page 221.

To the Honourable the Commons House of Assembly:—

- 10 The Committee to whom was referred the enquiry respecting the Reservation originally made by His Majesty's Government, at the Falls of Niagara, beg leave to report the draft of an Address to His Excellency the Lieutenant-Governor praying for information necessary to enable them to discharge the duties assigned them.

Which is respectfully submitted,

M. BURWELL, *Chairman.*

Committee Room,

Commons House of Assembly, Dec. 30th, 1833.

FRIDAY, 3rd January, 1833, 1834.

Page 59.

- 20 Mr. Burwell, from the Select Committee appointed to inquire into and report upon the Reservation of land at the Falls of Niagara, presented a report, with a draft of an Address to His Excellency the Lieutenant-Governor; which was received, and the report was read.

Report.—(See Appendix.)

The Address to His Excellency for information relative to reservation at the Falls of Niagara, was read twice.

On the question for the third reading of the Address to-morrow, the yeas and nays were taken as follows:—

YEAS:

30 Messieurs.

Bidwell,	Duncombe,	Merritt,	Shaver,
Brown,	Elliott,	Mount.	Vankoughnet,
Buell,	Howard,	Perry.	Werden,
Burwell,	Ketchumi,	Randal,	White,
Campbell,	Lewis,	Samson,	Willson.—21.
Cook,			

*Appendix to Journals 1833 - 34*

## NAYS:

Messieurs.

Berczy,	Hornor,	Morris.	Roblin,
Fraser, A.,	McDonald, D.,	Norton,	Shade.—11.
Fraser, D.,	McNab,	Robinson,	

The question was carried in the affirmative, by a majority of ten.

Adjourned.

SATURDAY, January 4th, 1834.

Page 60.

- 10 Agreeably to the Order of the day, the Address to His Excellency the Lieutenant Governor for information relative to the reservation of the Falls of Niagara was read the third time.

On the question for passing the Address,

Mr. McNab, seconded by Mr. Shade, moves in amendment, that the Address do not now pass, but that it do pass this day three months,

On which the yeas and nays were taken as follows:—

## YEAS:

Messieurs.

Berczy,	Fraser, D.,	McNab,	Samson,
20 Chisholm,	Hornor,	Morris,	Shade,
Clark,	Jarvis,	Norton,	Shaver,
Duncombe,	Lewis,	Robinson,	White.—19.
Fraser, A.,	Lyon,	Roblin,	

## NAYS:

Messieurs.

Boulton,	Campbell,	Howard,	Randal,
Brown,	Cook,	Ketchum,	Vankoughnet,
Buell,	Crooks,	Merritt,	Werden.—15.
Burwell,	Elliott,	Mount,	

- 30 The question was carried in the affirmative, by a majority of four, and ordered accordingly.



## No. 72.

### REPORT OF DEPUTY SURVEYOR KEATING UPON SURVEY MADE AT MILITARY RESERVE AT THE FALLS OF NIAGARA, ADDRESSED TO SURVEYOR-GENERAL, AND SUPPOSED TO BE OF DATE SEPTEMBER, 1834.

#### REPORT TO SAMUEL P. HURD, ESQ., SURVEYOR-GENERAL ON THE SURVEY OF THE MILITARY RESERVE AT THE FALLS OF NIAGARA.

SIR.—We beg leave to lay before you, our report on the survey made according to your directions of the military reserve at the Falls of Niagara.

10 We are happy to state that that survey proves, in the most clear and satisfactory manner, the justness of those claims of Government which we were sent to investigate, and we shall now proceed to explain the various results obtained as shown on the accompanying plan.

Our first step was to ascertain, some of the ancient and well-authenticated boundaries, or monuments, and having so far succeeded, we immediately set to work carefully and in succession, answering every question submitted to us through your hands, by the Council.

The questions may be summed up as follows:—

1. Whether the production of the line of the stone monument and the beech tree 20 were in with a straight line.
2. Whether the length of the lines forming the boundaries of the Ellsworths tract was obtained, as per patent, by producing them from the rear to the top of the bank only, without descending to the precipitous edge of the river.
3. Whether the lines above-mentioned embrace an extent of 200 acres.

To the first of these queries, we are, from actual survey, enabled to give a decided negative—the line commonly called the “sworn line,” is serpentine in its course, and the mile production of the line of the stone monument and beech tree intersects Lundy's Lane, 5 chains to the westward of it, as shown on the plan.

In reply to the second query, we ascertained that each line, with a degree of accuracy surprising when the remote period of the former survey is considered, agreed exactly with the description intrusted to us, save one only which however bore the indefinite mark of more or less. This difference amounts to 4 links, and was in all probability caused by the frequent slips in the bank.

The third query we can also answer in the affirmative. The Ellsworths tract, confining ourselves to the top of the bank we found to contain 201 acres, after deducting all roads and road allowances. Thirty-three acres would be added to that quantity, by including what by the opposite party had been termed the land below the bank, but what we consider a step in the bank, or its least precipitous part.



We are enabled to be thus positive in stating our opinion with regard to the meaning of the word bank (as above) from having at four different places, taken sections of it; which all led to a similar result, viz., a continuous descent, tho' of course more abrupt in some parts than others.

In conclusion, to leave nothing undone which might tend to satisfy the minds of the jury, before whom we anticipate the honor of laying the successful result of our survey, we, with the description in our hands, followed round the boundaries of the Ellsworth tract, measuring each line in the order in which it stood upon the patent, obtaining as before the same conclusive and satisfactory result.

10

We have the honour to be, Sir,

Your most obedient humble servants,

G. W. KEATING,

*Deputy Surveyor.*

### No. 73.

#### FURTHER PETITION OF WILLIAM FORSYTH WITH REPORT OF ATTORNEY-GENERAL JAMESON, AND PROCEEDINGS OF COUNCIL THEREON.

To HIS EXCELLENCY, SIR JOHN COLBORNE, KNIGHT COMMANDER OF THE MOST HONOURABLE MILITARY ORDER OF THE BATH, LIEUTENANT-GOVERNOR OF THE PROVINCE OF UPPER CANADA, MAJOR-GENERAL COMMANDING HIS MAJESTY'S FORCES THEREIN, &c., &c., &c.,  
20 IN COUNCIL.

The petition of William Forsyth, of Bertie, in the County of Lincoln, Yeoman,

HUMBLY SHEWETH:—

That in 1821 your petitioner purchased from William Dickson, Esquire, lot 159, with the broken front between it and the Niagara River adjoining the Falls; also other parts of lots; the whole of which had been granted to one Francis Ellsworth about thirty-five years ago, and had remained in his and his successors' peaceable possession until transferred to your petitioner.

That the valuable strip of land, consisting of the high bank and the brow of the hill and one chain in width on the top thereof, the whole length of your petitioner's  
30 front, was violently and illegally wrested from your petitioner by Captain Phillpotts and a Military Force, acting under the direction of your Excellency's predecessor, Sir Peregrine Maitland; that your petitioner's gardens, and meadows, including the whole front of his farm, were thrown open, exposed and injured, and his growing crops subjected to waste, that his blacksmith's shop was destroyed and driven over the hill, and the rails composing his fences repeatedly thrown down.



That these damages he sustained through the acts of Captain Phillpotts, and that on putting up his fences they were again thrown down and sixty acres of cultivated and enclosed lands exposed to injury and laid open.

That your petitioner applied to the House of Assembly for remuneration. That the House made inquiry, but were obstructed in so doing by the orders of the Lieutenant-Governor, and that the favourable reports of Committees of the House subjected the Members to be misrepresented to His Majesty's Government, but did not procure your petitioner the redress he sought.

That your petitioner recovered a verdict against Mr. Phillpotts in 1828, but it 10 was set aside, in a subsequent trial, the jury having decided against your petitioner. At length the validity of your petitioner's title has, however, been fully established and admitted.

That your petitioner, harrassed by law, injured by the Government, persecuted for the sake of his property, and embarrassed in his business, because he defended his right, resolved to sacrifice the whole estate, and actually did sell it, for fifteen thousand dollars less than it was fairly worth, to a private company, who found very little difficulty in obtaining from the Government that justice which had been continually denied to him.

That for these losses and this damage your petitioner humbly prays redress and 20 a just and fair remuneration. The Government has done him great and serious injury, the late decisions in the law courts prove that such is the case, and he trusts that your Excellency in Council, acting on behalf of Our Most Gracious Sovereign will not be slow to afford him ample compensation.

And your petitioner as in duty bound, will ever pray.

WM. FORSYTH.

Bertie, February 2nd, 1835.

ATTORNEY-GENERAL'S OFFICE, 4th February, 1835.

SIR,—I have the honour to return herewith the petition of Mr. Forsyth, referred to me by command of His Excellency the Lieutenant-Governor.

30 . I do not conceive it necessary to make any comments upon the statement contained in the petition : the real facts of the case are sufficiently known to His Excellency, and are fully detailed in the documents printed by order of the House of Commons, 18th July, 1833. I need only remark that the petitioner, in alleging that "the private company" (to whom he states that he had sold his property at the Falls of Niagara) "found little difficulty in obtaining from the Government that justice which had been continually denied him," is evidently under a misapprehension. He seems to suppose that the Government has abandoned to Messrs. Clarke & Street, that which it took so much pains to save for the public from the intrusive appropriation of Mr. Forsyth himself.



It is true that after having been by two verdicts and judgments of the Court of Kings Bench, decided to be a public reserve, Messrs. Clarke & Street, the present proprietors of the land adjoining, succeeded in obtaining a verdict for the trespass upon that piece of ground on the bank of the river opposite the falls, which was in 1798, specially reserved in the patent to Elsworth; but that verdict was set aside by the Court of Kings Bench as being contrary to evidence. When this action came on to be re-tried at the last Niagara Assizes, the principal, indeed the only important witness for the defence, the surveyor, who originally laid out the reserve before the adjoining land was granted, did not obey the 10 subpoena, he being, as he afterwards explained, just recovering from a dangerous sickness; and as the judge at Nisi Prius did not think it right to accede to my application to allow this case to stand over for a few days until that witness could attend, no evidence was offered. The verdict in this personal action I considered of comparatively little importance, since a suit was at that moment pending on the part of the Crown against Clarke & Street which would have conclusively settled the title to the reserve. It then stood for trial, but from the absence of the witness above mentioned, the record was for the present withdrawn.

So far from entertaining any doubt as to the right of the Crown to the reserve in question, I am convinced that the claim now set up by Clarke & Street is an un-  
20 righteous one, and unless it shall appear to the Executive Government for any reason not at present apparent, to be inexpedient, it is my intention to proceed against those gentlemen by the information of intrusion, which I was for the reason I have just stated obliged to withdraw.

I have the honor to be, Sir,

Your most obedient humble servant,

ROBERT S. JAMESON,

*Attorney-General.*

Lieutenant-Colonel ROWAN,

Secretary to His Excellency,

30                  &c.,                  &c.,                  &c.

IN COUNCIL, 5th February, 1835.

The Council concur fully in the annexed opinion of the Attorney-General, from which it will appear that the question was tried before the proper tribunal and decided against Mr. Forsyth, after which he sold to others any right he might have to the property in dispute. Since that sale other decisions have been made relative to the said property, which was claimed under a title derived from the petitioner. The question, however, is not finally decided, but if it were, Mr. Forsyth is no longer



one of the parties, the persons deriving under him having been placed in his stead and becoming sole claimants.

JOHN STRACHAN.

Copy of the above minute and also a copy of the Attorney-General's opinion sent to Petitioner, 6th February, 1835 Copy of both also sent to Colonel Rowan, to accompany the address of the House of Assembly, 12th June, 1835.

6th February, 1835.

DEAR SIR.—I am directed by the Lieutenant-Governor to request that you will transmit copies of the Attorney-General's report and the minute of Council to Mr. 10 Forsyth, in reply to his petition of the 2nd instant, with as little delay as possible.

Mr. Forsyth is at the Ontario House in this city.

Very faithfully yours,

WM. ROWAN.

John Beikie, Esq.

## No. 74.

PETITION OF CERTAIN FREEHOLDERS WITH TWO REPORTS OF CAPT. BONNYCASTLE AND CLERK OF WORKS HOUGHTON TO THE LIEUTENANT-GOVERNOR'S SECRETARY, WITH REFERENCE TO OPENING THE RESERVE TO THE PUBLIC, AND AS TO QUARRYING STONE, AND 20 PROCEEDINGS OF COUNCIL.

To HIS EXCELLENCY SIR JOHN COLBORNE, K.C.B., LIEUT.-GOVERNOR OF UPPER CANADA, &c., &c., &c.

The petition of certain freeholders and others, inhabitants around the Falls of Niagara, humbly sheweth :

That your petitioners view with much satisfaction the efforts made by Your Excellency's direction to open to the world at large, the beautiful scenery on the banks of the River Niagara in this neighbourhood.

That your petitioners respectfully solicit Your Excellency may be pleased to issue directions to cause the ferry road under the bank to be made passable and safe 30 for horses and carriages, and guarded by a stone wall on the outside to prevent accidents happening to carriages or foot passengers.

That Your Excellency may be pleased to cause a stop to be put to the blasting and cutting through the Government reserve (now being carried on) by individuals



to the injury of the said bank, and the reserve appropriated by Your Excellency as a free road to the public.

And your petitioners will ever pray.

Falls of Niagara, May 7th, 1835.

	HARMANUS CRYSLER	ROBERT SLATER
	JAMES FORD	WILLIAM LOWELL
	THOMAS PATRICK	ADAM CRYSLER
	JOHN LAW	CORNELIUS T. FORSYTH
10	BENJ. CHADWICK	J. SHANNON
	SAMUEL FALCONBRIDGE	JONATHAN BRADFIELD
	CHARKES ANDERO	RICHARD WHATLEY
	JOHN BIGGER	CORNELIUS FOSTER
	ADAM FRALICK	JOHN UNCERUKS
	COLLIER OWEN	OGDEN CREIGHTON, J.P.
	JAMES SKINNER	

ROYAL ENGINEER OFFICE, TORONTO, 18th May, 1835.

SIR.—In obedience to your orders of the 14th instant, I have the honour to inform you that I proceeded on the following day to examine the Military Reserve at the Falls of Niagara with reference to the petition to His Excellency the Lieut.-Governor from 20 a number of respectable inhabitants at that place. The ferry road was then undergoing repair, which I was informed was commenced since the petition to His Excellency respecting it was forwarded. I could not learn whether it was intended to build a stone wall or guard, which the petitioners requested that directions might be given to cause to be done, and which appears very desirable for the safety of persons going to and from the ferry.

With regard to the blasting and cutting through the reserve, I beg to state that a semi-circular opening of from sixteen to eighteen feet diameter and about two feet deep has been made on the face of the bank immediately above the bottom of the ferry road, the object of which as far as I could learn, and certainly appears to be, 30 for the erection of a circular stair case down to the ferry, or rather from the ferry to the top of the bank, and I believe the reason of this intended erection is to bring persons crossing from the American side up those stairs, without going up the ferry road as heretofore, at the top of which is a very extensive building in a state of forwardness intended for a hotel, which would probably be the means of preventing many visitors from going to the Pavillion, particularly as the site of this new building commands a very extensive view of the cataract.

I have the honour to be, Sir,

Your most obedient humble servant,

GEO. HOUGHTON,

*Clerk of Works.*

40

To Captain BONNYCASTLE,

Commanding Royal Engineers, Western District.

*Th. Clifton*

Wint' v Mrs

## ROYAL ENGINEER OFFICE, TORONTO, 18th May, 1835.

The accompanying petition from twenty-one respectable inhabitants of the vicinity of the Falls of Niagara has been received at this office with a request that I would lose no time in laying it before His Excellency the Lieutenant-Governor.

At the same time I take the opportunity of stating that as the chain of military reserve from the ferry road to the whirlpool has been opened for the public benefit, I should respectfully suggest that the time is arrived when it would be very advantageous that the license of occupation granted by His Excellency Sir P. Maitland to Messrs. Clarke and Street, and dated , a copy of which 10 I forward, should be withdrawn, and the whole reserve placed on such a footing as will in future assure to the public the free access to the view of the river, which whilst it remains in the hands of any private person, however respectable they may individually be, is liable at all times to interruption, as may be well seen by the deformity which has been erected for supplying water to the bank above; and which has totally spoiled the most commanding and majestic view of the cataracts.

I have always objected to the quarrying stone on the bank near the ferry, as that part of the reserve should have been left intact from the singular beauty of the view obtained near the edge of the precipice there, a point at which the great Falls is probably seen to the utmost advantage.

20 I have the honour to enclose the report of the clerk of the works, who by His Excellency's order visited the spot on Friday last, by which it will be seen that much of the narrowest part of the reserve has been quarried upon.

I have the honour to be, Sir,

Your most obedient humble servant,

R. H. BONNYCASTLE,

Captain, Royal Engineers, Western Dist. U.C.

Lt.-Col. ROWAN, Secretary, &c., &c., &c.

GOVT. HOUSE, 19th May, 1835.

Referred to the Honourable the Executive Council.

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By command,

WM. ROWAN.

IN COUNCIL, 4th June, 1835.

Recommended that the within statements or a copy of them be transmitted to the persons who received the license of occupation, in order that they may be enabled to furnish their reply.

JOHN STRACHAN, P.C.

Copies of the whole sent to Messrs. Clarke and Street, 8th June, 1835.

# IN THE COURT OF APPEAL FOR ONTARIO

*Rec'd 20 March 1894*  
*EJ*

BETWEEN

THE COMMISSIONERS FOR THE QUEEN VICTORIA NIAGARA FALLS  
PARK AND THE HONOURABLE SIR OLIVER MOWAT, HER  
MAJESTY'S ATTORNEY-GENERAL FOR THE PROVINCE OF  
ONTARIO, ON BEHALF OF HER MAJESTY, (RESPONDENTS)

PLAINTIFFS;

AND

GEORGE HENRY HOWARD AND THOMAS SWINYARD, (APPELLANTS)

DEFENDANTS.

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## APPENDIX "A" TO APPEAL BOOK CONTAINING EXHIBITS

### PART II.

CONTAINING EXHIBITS 75 TO 179 INCLUSIVE

PAGES 232 TO 516 INCLUSIVE

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KINGSMILLS, SYMONS, SAUNDERS & TORRANCE,  
*Solicitors for Appellants.*

ÆMILIUS IRVING, Q.C.,  
*Solicitor for Respondents.*

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OTTAWA  
GOVERNMENT PRINTING BUREAU  
1894



# IN THE COURT OF APPEAL FOR ONTARIO

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BETWEEN

THE COMMISSIONERS FOR THE QUEEN VICTORIA NIAGARA FALLS  
PARK AND THE HONOURABLE SIR OLIVER MOWAT, HER  
MAJESTY'S ATTORNEY-GENERAL FOR THE PROVINCE OF  
ONTARIO, ON BEHALF OF HER MAJESTY, (RESPONDENTS)

PLAINTIFFS;

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*Solicitors for Appellants.*

ÆMILIUS IRVING, Q.C.,  
*Solicitor for Respondents.*

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OTTAWA  
GOVERNMENT PRINTING BUREAU  
1894





## No. 75.

ANSWER OF MESSRS. CLARKE & STREET TO CHARGES OF REMOVING STONE, AND LETTERS FROM OGDEN CREIGHTON AND CAPTAIN BONNYCASTLE, WITH PROCEEDINGS IN COUNCIL THEREON.

To the Honourable the Executive Council of the Province of Upper Canada.

The respectful reply of Messrs. Clarke & Street, who received the license of occupation of part of the Government Reserve below the Falls of Niagara, which reply is made as recommended by the minutes of your Council of the 4th of this month, in answer to sundry statements, copies of which have been transmitted to us ; 10 being a petition from certain freeholders and other inhabitants around the Falls of Niagara to His Excellency Sir John Colborne, dated 7th of last month ; a letter from Captain Bonnycastle to Lieut. Colonel Rowan, dated 10th of last month, and a letter from George Houghton, Clerk of Works, to Captain Bonnycastle.

With reference to the petition we beg leave to say that it is quite *ex parte* and unfairly stated, and gives us much regret, the more particularly so as Captain Creighton, our neighbour, appears to us to be the prime mover of it without ever having mentioned or given to us the least intimation of such a proceeding.

This petition first states that it is from certain freeholders and other inhabitants around the Falls of Niagara—which is not the case, as the whole of them, and many 20 of them we never before heard of, reside nearly a mile to the north of the Falls, about Lundy Lane and on its continuation to the Niagara River, near Captain Creighton's residence. It next goes on to solicit that the Lieutenant-Governor may be pleased to issue directions to cause the Ferry Road under the bank to be made passable and safe for horses and carriages and guarded by a stone wall on the outside to prevent accidents happening to carriages or foot passengers. In reply to this we beg leave to say that the road is passable and good at present, and has been so since it was made, seven years ago. Rubbish and stones brought down the precipice by the ice and rains in the winter do the road much injury, but it is repaired every spring before the ferrying commences, as has been the case this season, at much 30 expense. We acknowledge that the wall on the outside of it is not now, nor has ever been so sufficient as it should be, the situation of the place making it most difficult for a wall to stand, and where it was made most of it has been thrown over the precipice by idle persons to see the stones fall a great height. Our intention is, therefore, to make a railing of timber on the outside, and the reason for this not being done is that there has been, in our opinion, as yet no occasion for it, as it cannot be frequented by horses and carriages, none of which cross the ferry, by reason that the Americans on the opposite bank have not yet completed their carriage road to the water's edge, and which they agreed to do when we undertook to make the road on this side, and which we did at a very great expense expecting to be remunerated by



the proceeds of the ferry, but in which we have been disappointed. It is, however, expected that the Americans, who are now at work at their road, will finish it, but this, from the magnitude of the work, is not expected to be accomplished short of another year, if then. The petitioners next solicit His Excellency the Lieutenant-Governor may be pleased to cause a stop to be put to the blasting and cutting through the Government Reserve (now being carried on) by individuals to the injury of the said bank and the reserve appropriated by His Excellency as a free road to the public. By individuals is clearly meant your replicants, and in answer to this we positively deny ever having cut through the Government reserve further than to make the 10 ferry road and, last month, a small piece of projecting rock in front of our land, so as to bolt a straight stair ladder (not a circular one) of about six feet wide to the perpendicular rock for affording general accommodation by making the access to the ferry from the Falls about half a mile shorter than by the present route, which will still remain, and this ladder cannot affect or interfere, as neither did the former one we had a little above it (now decayed and fallen), with the road reservation, which will still be a chain wide, and this approach from the Falls to the ferry we look upon ourselves, when holding leases of both the ferry and reserve, in a great degree bound to make. We do not remember of ever having quarried a stone on this reserve, excepting as we have stated, other than in the beginning of this month, long after the date of this 20 petition, and this was done for the benefit of the road from the head of the ferry road towards the Falls by picking off some loose stone and levelling down uneven rock on the surface, and in doing this our workmen were obstructed by Harmanus Crysler, the first of the petitioners and the person now building the hotel at the head of the ferry road, saying he was instructed by Captain Bonnycastle so to do; but Captain Bonnycastle says he gave no such instructions; there is, however, now, and has been for years past, extensive quarries on the reserve immediately to the south of the ferry road, made by this Harmanus Crysler, George and Philip Bender, and others, from which stone is sold and supplied to all the country round.

*que North  
seenet pris*

Captain Bonnycastle says in his letter that the petition is from twenty-one 30 respectable inhabitants,. Nineteen names are only placed to the copy sent to us; probably the other two could not be deciphered, but from what we know of many of them, they are not in our opinion deserving the title of respectable. He next says that as the military reserve from the ferry road to the Whirlpool has been opened for the public benefit, he suggests the time is now arrived when it would be very advantageous that the license of occupation granted by His Excellency Sir Peregrine Maitland to Messrs. Clarke & Street should be withdrawn, and the whole reserve placed on such a footing as will in future assure the free access to the view of the river. This would seem to imply that we, under our license of occupation, had obstructed or would obstruct as a public road the part of the chain embraced in that 40 license, as also the free access to the view of the river. To this we answer that we



never have either obstructed the road or access to the view of the river, nor to do either has it ever, nor do we think it ever will enter our minds, but as His Excellency Sir John Colborne, our Lieutenant-Governor, has lately most publicly given currency to what His Excellency terms the opinion of the Law Officers of the Crown, in which we are most unjustly and most unwarrantably accused of an iniquitous proceeding in regard of lands near the reservation in question, it is possible from that Captain Bonnycastle has been led to make his suggestion. Our license of occupation was granted us by Sir Peregrine Maitland for our protection in the enjoyment of the ferry (in which we had frequently been improperly interfered with) and for making 10 approaches to it, and these approaches we have made in the best manner we could, but in a different direction from what we would have made them could we at the time have obtained liberty of access through William Forsyth's land to the highway.

Captain Bonnycastle next mentioned that the reservation is at all times liable to interruptions, as may be seen by the deformity which has been erected for supplying water to the bank above, and which has totally spoilt the most commanding and majestic view cf the cataracts.

We admit that the road on the piece of the reservation granted to us is liable, but not more so than other roads, to be interrupted by casualties, but surely it will not be more liable to these, from the part of it being within the limits of our license 20 of occupation. As to the deformity, so called by Captain Bonnycastle, which has been erected for the supplying water to the bank above, and which he says has totally spoilt the most commanding and majestic view of the Falls, this may be Captain Bonnycastle's idea of the small building erected to cover the wheel for raising the water—this is a matter in which we are but little interested—and not erected within the limits of the reservation granted to us; it was, however, placed there as we understood by the sanction of His Excellency Sir John Colborne. This is the first time we have heard it named a deformity, and altho' it may appear unseemly in the eyes of some people, yet the great comfort it gives in supplying water to a town where there are no springs and where water cannot be got by 30 digging wells, will in some measure, in our humble opinion, compensate for its appearance.

Captain Bonnycastle goes on to say that he has always objected to the quarrying of stone on the bank near the ferry: to this we can only again say that we have never quarried there, excepting as we have mentioned. The extensive quarrying now carrying on there has been in operation for two or three years past, and which must have been observed by Captain Bonnycastle, whose sanction for doing so we always understood from Harmanus Crysler and the others they have obtained before quarrying, otherwise we should have put a stop to it, that part of the reserve, and to the extent of about half a mile further down, being the limits of our license 40 of occupation.



As to the letter of George Houghton, Clerk of Works, we shall say nothing, as we did not know anything of his being here and are ignorant of what he visited, as well as from whom he got his information; there however appears nothing in that letter but what is previously answered.

Before we finish we beg leave to say, from our having resided in Upper Canada ever since it was a province, we have always understood that the reserved chain of land along the waters of the Saint Lawrence, Niagara and Detroit Rivers were for the use of the public, and no more under the superintendence of the military than other ungranted lands of the Crown; but be that as it may, we in conclusion very 10 respectfully offer as our opinion and conviction that the before mentioned petition has been got up solely by interested persons with the view of preventing free access to visitors and travellers by the nearest and easiest way between the Falls and the ferry, and cause them to go by a circuitous route so as to pass the small inn and hotel of two of the petitioners.

To corroborate in part what we have stated, we annex some certificates.

All of which is respectfully submitted.

(Signed) CLARKE & STREET.

NIAGARA FALLS, June 22nd, 1835.

CLIFTON, FALLS OF NIAGARA, June 23rd, 1835.

SIR,—I consider it my duty to report to you that I feel myself called upon by circumstances to interfere this afternoon in preventing a person who calls himself John Smith, from taking a waggon load of stones from the chain belonging to the Government reserve in front of my property, the said Smith told me he was employed by Samuel Street, Esq., to take the stone away, and convey them to Lundy's Lane, where Mr. Street had contracted to build a house for some person or other. He further stated that he had previously removed (during my absence from home) about six cords of stone from the same place, which Mr. Street had ordered to be quarried on the chain along the lower bank of the river. I shall feel obliged by your instructing me whether I am to persevere in refusing the stone, or permit Mr. Street 30 to have them.

I remain, Sir, your obedient humble servant,

OGDEN CREIGHTON.

To Capt. Bonnycastle, R.E., Senior Officer, &c., &c., &c., Toronto.

ROYAL ENGINEER OFFICE, TORONTO, U.C., 29th June, 1835.

SIR,—I have the honour to forward with reference to my report of the 18th May, 1835, a letter I have just received from a magistrate, Captain Creighton, in the vicinity of the Falls, by which it would appear that the narrow part of the chain reservation near the ferry road is being cut away.



I have again respectfully to urge the propriety of resuming this license of occupation.

I have the honour to be, Sir,

Your most obedient humble servant,

R. H. BONNYCASTLE,

*Captain, Royal Engineers, Western Dist., U.C.*

Lt.-Col. Rowan, Secretary, &c., &c., &c.

GOVERNMENT HOUSE, 1st July, 1835.

Referred to the Honourable the Executive Council.

10

By command,

WM. ROWAN.

IN COUNCIL, 6th August, 1835.

As the road constructed by Messrs. Clarke and Street was made at great expense, with the understanding that the license of occupation would not be resumed until the land was wanted, it is recommended that it be not rescinded, but that Messrs. Clark and Street be requested to prevent any quarrying of stone on the reservation.

JOHN STRACHAN, P.C.

J. C.

Copy of the above sent to Messrs. Clarke and Street and Captain Bonnycastle,  
20 8th August, 1835.

## No. 76.

COMMISSION TO THE EARL OF GOSFORD AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF UPPER CANADA.

WILLIAM THE FOURTH, BY THE GRACE OF GOD OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, KING, DEFENDER OF THE FAITH, TO OUR RIGHT TRUSTY AND RIGHT WELL-BELOVED COUSIN AND COUNCILLOR ARCHIBALD EARL OF GOSFORD, GREETING:

WHEREAS we did, by certain letters patent bearing date at Westminster the twenty-fourth day of November one thousand eight hundred and thirty, in the first year of our reign, constitute and appoint our right trusty and well-beloved Matthew 30 Lord Aylmer, Knight, Commander of the Most Honourable Military Order of the Bath, Lieutenant-General of our Forces, to be Captain-General and Governor-in-Chief in and over the Provinces of Upper and Lower Canada, during our royal pleasure; AND WHEREAS we did, by certain other letters patent bearing date at Westminister the second day of April in this present year one thousand eight hundred and thirty-five, in the fifth year of our reign, constitute and appoint our right trusty and right well-beloved Cousin and Councillor William Pitt, Earl Amherst, to be our Cap-



tain-General and Governor-in-Chief in and over the Provinces of Upper and Lower Canada aforesaid during our royal pleasure, and by the said last recited letters patent of the twenty-fourth day of November, one thousand eight hundred and thirty, as by these said recited letters respectively, relation being thereunto had, may more fully and at large appear; NOW KNOW YOU that we have revoked and determined, and by these presents do revoke and determine, the said recited letters patent of the second day of April one thousand eight hundred and thirty-five, and every clause, article, and thing therein contained; AND FURTHER KNOW YOU, that we, reposing especial trust and confidence, in the prudence, courage and loyalty  
10 of you the said Archibald Earl of Gosford, of our especial grace, certain knowledge and mere motion have thought fit to constitute and appoint you to be, during our pleasure, our Captain-General and Governor-in-Chief in and over our Province of Upper Canada, and in and over our Province of Lower Canada, respectively, bounded by a line to commence at a stone boundary on the north bank of the Lake Saint Francis at the cove west of the Point au Baudet in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil running north twenty-five degrees east until it strikes the  
20 Ottawa River into the Lake Tomiscanning, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay; the Province of Upper Canada to comprehend all such lands, territories and islands lying to the westward of the said line of division as were part of our Province of Quebec and the Province of Lower Canada to comprehend all such lands, territories and islands lying to the eastward of the said line of division as were part of our said Province of Quebec; AND we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed in you, according to the several powers, provisions and directions granted or appointed you by virtue of our present commission, and of an Act passed in the thirty-first year  
30 of the reign of His late Majesty, King George the Third, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of Quebec, in North America,' and to make further provision for the Government of the said Province" and of such instructions as are herewith given to you, or which may from time to time be hereafter given to you, in respect to the said Provinces, or either of them, by us, under our sign manual and signet, or by our order in our Privy Council, or through one of our Principal Secretaries of State, and according to such laws as are now in force or shall hereafter be made and established within our said Provinces of Upper Canada and Lower Canada, under and by virtue of such powers, provisions and  
40 directions as aforesaid; AND our will and pleasure is, that you the said Archibald Earl of Gosford, as soon as may be after the publication of these our letters patent, do



take the oaths appointed to be taken by an Act passed in the first year of the reign of King George the First, intituled, " An Act for the further security of His Majesty's person and Government, and for the succession of the Crown in the heirs of the late Princess Sophia being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors," as altered and explained by an Act passed in the sixth year of the reign of King George the Third, intituled, " An Act for altering the oath of abjuration and the assurance, and for amending so much of an Act of the seventh year of Her late Majesty Queen Anne, intituled: 'An Act for the improvement of the Union of the Kingdoms,' as after the time therein limited requires 10 the delivery of certain lists and copies therein mentioned to persons indicted of high treason or misprision of treason," or in lieu thereof the oath required to be taken by an Act passed in the tenth year of the reign of His late Majesty King George the Fourth, intituled " An Act for the relief of His Majesty's Roman Catholic subjects," according as the said former Acts or the said last-mentioned Act shall be applicable to your case; and likewise that you take the usual oath for the due execution of the office and trust of our Captain-General and Governor-in-Chief of our said Province of Upper Canada and our said Province of Lower Canada and for the due and impartial administration of justice; and further that you take the oath required to be taken by Governors of plantations, to do their utmost that the several laws relating to trade 20 and plantations, be duly observed; all which said oaths the Executive Councils of of our said Provinces of Upper Canada and Lower Canada respectively, or any three or more of the members of either of them, have hereby full power and authority and are required to administer unto you, and in your absence to our Lieutenant-Governor, if there be any upon the place; ALL which being duly performed, you the said Archibald Earl of Gosford, or in your absence our Lieutenant-Governors of our said Provinces, or persons administering the respective Governments therein, shall administer to each of the members of such Executive Councils as aforesaid such 30 of the said oaths mentioned in the said several Acts as shall be applicable to the case of the individual member of our said Council taking the same; and you are also to administer to them the usual oath for the due execution of their places and trusts. And whereas we may find it convenient for our service that certain offices or places within our said Provinces of Upper Canada and of Lower Canada should be filled by our subjects who may profess the religion of the Church of Rome; and it is therefore our will and pleasure, that in all cases where such persons shall or may be admitted into any such office or place, the oath prescribed in and by an Act of Parliament passed in the fourteenth year of the reign of King George the Third, intituled " An Act for making more effectual provision for the Government of the Province of Quebec in North America," and also the oath prescribed in and by the act before mentioned, passed in the tenth year of the reign of His late Majesty, King George the 40 Fourth, shall be duly administered unto them; and they shall also take the usual oath for the due execution of their places and trusts respectively; WE do further



give and grant unto you the said Archibald Earl of Gosford, full power and authority from time to time and at any time hereafter by yourself, or by any other to be authorized by you in that behalf, to administer and give such of the said oaths in the said several Acts contained as shall be applicable to the case of the individual to whom the same shall be administered to every such person and persons as you shall think fit, who shall hold any office or place of trust or profit, or who shall at any time or times pass into our said Provinces of Upper Canada and of Lower Canada, or shall be resident or abiding therein ;

AND WE DO HEREBY authorize and empower you to keep and use the public seals of our said Provinces of Upper Canada and Lower Canada for sealing all things whatsoever that shall pass the seal of our said Provinces respectively ; and in case of your absence from either of our said Provinces, to deliver the same into the charge and custody of our Lieutenant-Governor, or person administering the Government there for the purposes before mentioned, until we shall think fit to authorize you, by an instrument under our Royal Sign Manual, to commit the custody thereof to such person or persons as may be appointed by us for that purpose.

AND whereas by said recited Act passed in the thirty-first year of the reign of His late Majesty King George the Third, it is enacted, that there shall be within each of our said Provinces of Upper Canada and Lower Canada respectively, a Legislative Council, &c., and an Assembly to be composed and constituted in the manner in the said Act described ; and that in the said Provinces we, our heirs and successors, shall have power during the continuance of the said Act, by and with the advice and consent of the said Legislative Councils and Assemblies, to make laws for the peace, welfare, and good government of the said Provinces respectively, such laws not being repugnant to the said Act ; and that all such laws being passed by the said Legislative Councils and Assemblies, and being assented to by us, our heirs and successors, or assented to in our name by such person as we, our heirs and successors, shall from time to time appoint to be our Governor or Lieutenant-Governor of the said Provinces respectively, or by such person as we, our heirs and successors shall from time to time appoint to administer the government within the same, are by the said Act, declared to be, by virtue of and under the authority of the said Act, valid and binding to all intents and purposes whatsoever within our said Provinces ; WE do hereby give and grant unto you, the said Archibald Earl of Gosford, full power and authority to issue writs of summons and election, and to call together the Legislative Councils and Assemblies of our said Provinces of Upper Canada and of Lower Canada, in such manner as is in the said Act authorized and directed, subject to the provisions and regulations therein contained in that behalf, and to such instructions and authorities as shall be herewith or at any time hereafter given unto you by us in that behalf under our Signet and Sign Manual, or by our order in Privy Council, or through one of our Principal Secretaries of State ; And we do hereby



give and grant unto you the said Archibald Earl of Gosford full power and authority to fix the times and places of holding every Session of the Legislative Councils and Assemblies of our said Provinces of Upper Canada and Lower Canada, and to prorogue the same from time to time, and to dissolve the same by proclamation or otherwise, subject nevertheless to the regulations, provisions and directions of the last mentioned Act, and to such instructions and authorities as in respect of the premises may be herewith or at any time hereafter given by us unto you under our Signet and Sign Manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State.

10 And we do by these presents authorize and empower you the said Archibald Earl of Gosford, with the advice of the Executive Councils appointed by us for the affairs of our said Provinces of Upper Canada and Lower Canada respectively, from time to time to form, constitute and erect townships or parishes within our said provinces; and also to constitute and erect within every township or parish, which now is or hereafter may be formed, constituted or erected within our said provinces, one or more parsonage or rectory, or parsonages or rectories, according to the establishment of the Church of England; and from time to time, by an instrument under the seal of our said provinces, respectively, to endow every such parsonage or rectory with so much or such part of the said lands so allotted and appropriated as by the 20 last recited Act in that behalf is mentioned in respect of any lands within such township or parish which shall have been granted subsequent to the commencement of the same Act, or of such lands as may have been allotted and appropriated for the same purpose, by or in virtue of any instructions which may be given by us in respect of any lands granted before the commencement of the last mentioned Act, as you, with the advice of our said Executive Council of such province, shall judge to be expedient under the existing circumstances of such township or parish, subject nevertheless to such instructions touching the premises as shall or may be given you by us, under our signet and sign manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State; and we do also by these presents 30 authorize and empower you to present, subject to the provisions in the above mentioned Acts in that behalf, to every such parsonage or rectory, and to every church, chapel, or other ecclesiastical benefice, according to the establishment of the Church of England, within either of our said provinces, an incumbent or minister of the Church of England, who shall have been duly ordained according to the rites of the said church, and to supply from time to time such vacancies as may happen of incumbents or ministers of the said parsonages, rectories, churches, chapels or benefices, or any of them respectively.

And we do hereby give and grant unto you the said Archibald Earl of Gosford full power and authority to give warrants under your hand for the 40 issuing of public monies for all public services; and we do particularly re-



quire you to take care that regular accounts of all receipts and disbursements of such monies be duly kept ; and we do further give to you the said Archibald Earl of Gosford full power and authority, when and so often as any bill which has been passed in the Legislative Council and House of Assembly of either of our said provinces of Upper Canada and Lower Canada shall be presented unto you for our Royal assent, to declare according to your discretion (but subject, nevertheless, to the provisions contained in the said recited Act, passed in the thirty-first year of the reign of his late Majesty King George the Third, and subject also to such instructions, directions and authorities as we shall herewith or at any time hereafter give 10 unto you in that behalf under our signet and sign manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State), that you assent to such bill in our name, or that you withhold our assent from such bill, or that you reserve such bill for the signification of our Royal pleasure thereon ; and we do hereby authorize and empower you to constitute and appoint judges, and in cases requisite, Commissioners of Oyer and Terminer, justices of the peace, and other necessary officers and ministers in our said provinces of Lower Canada and Upper Canada, for the better administration of justice, and putting the laws in execution, and to administer or cause to be administered unto them such oath or oaths as are usually taken for the due execution and performance of offices and places, and for clearing the 20 truth in judicial causes ; and we do hereby give and grant unto you full power and authority, when you shall see cause, or shall judge any offender or offenders in criminal matters, or for any fines or forfeitures due unto us, fit objects for our mercy, to pardon all such offenders, and to remit all such offences, fines and forfeitures, treason and wilful murder only excepted ; in which cases you shall likewise have power upon extraordinary occasions, to grant reprieves to the offenders until and to the intent that our Royal pleasure may be made known thereon ; and we do likewise give and grant unto you full power and authority, with the advice of our Executive Councils of our said provinces of Upper Canada and Lower Canada, to grant lands within the said provinces respectively ; which said grants are to pass 30 and be sealed with our seal of such province, and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in law against us, our heirs and successors ; and we do hereby require and command all our officers and ministers, civil and military, and all other inhabitants of our said provinces of Upper Canada and Lower Canada, to be obedient, aiding, and assisting unto you the said Archibald Earl of Gosford in the execution of this our commission, and of the powers and authorities herein contained ;

And in case of your death or absence out of our said Province of Upper Canada, or our Province of Lower Canada, we do by these presents, in either of such cases, give and grant all and singular the powers and authorities herein to you granted to 40 our Lieutenant-Governors for the time being of such Provinces respectively, or of

with the advice of our Sec. General  
and Grants  
under Great Seal

either of them, as the case may be, or in the absence of any such Lieutenant-Governors or Lieutenant-Governor, to such person or persons as we may by warrant under our Sign Manual authorize and appoint to be the Administrator of the Government of such Provinces or either of them, such powers and authorities to be by them or him executed and enjoyed during our pleasure; but if upon your death or absence out of our said Provinces of Upper Canada and Lower Canada, or either of them, there be no person upon the place commissioned and appointed by us to be our Lieutenant-Governor, or specially appointed by us to administer the Government within our said Provinces, our will and pleasure is, that until your  
 10 return from any such absence, or until our further pleasure shall be known, the senior military officer for the time being in command of our forces within our said Province of Upper Canada, or our said Province of Lower Canada, as the case may be, shall take upon him the administration of the Government thereof, and shall execute in our said Provinces respectively this our commission and aforesaid instructions, and the several powers and authorities therein contained, in the same manner and to all intents and purposes as other our Captain-General and Governor-in-Chief should or ought to do; and we do hereby give and grant unto you the said Archibald Earl of Gosford full power and authority, in case any person or persons commissioned or appointed by us to any office or offices within our said  
 20 Provinces of Upper Canada or Lower Canada, from which he or they may be liable to be removed by us, shall in your opinion be unfit to continue in our service, to suspend such person or persons from his or their several employments until our pleasure shall be known.

In witness, &c. And for so doing, this shall be your warrant. Given at our Court at Windsor this 13th day of June, 1835, in the fifth year of our reign.

BY HIS MAJESTY'S command.

(Countersigned)

GLENELG.

## No. 77.

30 REPORT ON GRIEVANCES OF WILLIAM FORSYTH, WITH THE REPORT AND VARIOUS PROCEEDINGS TAKEN THEREON OF THE SPECIAL COMMITTEE ON GRIEVANCES, UPPER CANADA.

REPORT ON THE PETITION OF WILLIAM FORSYTH, OF THE NIAGARA FALLS PAVILION, COMPLAINING OF MILITARY OUTRAGE, &c., CONTAINED IN THE SEVENTH REPORT OF SELECT COMMITTEE, HOUSE OF ASSEMBLY, UPPER CANADA, ON GRIEVANCES, 1835.

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#### REPORT.

TO THE HONOURABLE THE HOUSE OF ASSEMBLY:

The Special Committee on Grievances, to whom was referred the petition of William Forsyth, of Bertie, late proprietor of the Niagara Falls Pavilion estate, complaining of the unwarrantable interference of Sir Peregrine Maitland with his civil rights, in the employment of a military force to dispossess him of his property, and of other wrongs done him on the part of the Government, respectfully report:—

1. That William Forsyth was in quiet and peaceable possession of certain land and premises near the Falls of Niagara, in 1827, respecting his title to which, as 30 proprietor, some disputes have arisen, which have since terminated in a verdict in favour of the persons to whom he sold the estates, on an action of trespass.

2. That Sir Peregrine Maitland, acting in his military capacity as Major-General Commanding the Forces in Upper Canada, and without consulting the Attorney-General, issued his orders to Captain Phillpotts to dispossess Mr. Forsyth and eject him from his property by force.

3. That Captain Phillpotts, in the above year, acting in obedience to the commands of Sir Peregrine Maitland, took with him a party of soldiers, entered with them upon Mr. Forsyth's premises, and in defiance of his remonstrances and entreaties, cut and threw down his fences, leaving his growing crops exposed,

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destroyed his blacksmiths' shop, and caused him other damage and injury. This they did on the 18th of May, 1827.

4. That Mr. Forsyth employed persons to build up and repair his fences and restore his premises to their wonted state of order and regularity, the outrage having been committed at a season of the year in which many strangers visit the Falls.

5. That Captain Phillpotts and his soldiers, acting as before under the superior authority of Sir Peregrine Maitland, again entered upon Mr. Forsyth's lands, threw down his fences, destroyed his crops and did him damage, they paying no attention to his remonstrances.

10 6 That this second outrage, like the first, was unknown to the Attorney-General, whose first knowledge of these circumstances was acquired after he had been instructed to defend Captain Phillpott's conduct in an action brought by Mr. Forsyth.

7. That Mr. Forsyth was baffled in his attempts to obtain redress in the ordinary courts of law, and that when the House of Assembly took the matter up on his petition, Sir Peregrine Maitland ordered Colonels Givins and Coffin to disobey their summons, so that the evidence which would have identified the Lieutenant-Governor with these matters could not then be obtained, the Colonels choosing to remain in gaol till the close of that Parliament, rather than give their testimony before the Committee.

20 8. That the Select Committee, consisting of Mr. John Rolph, Chairman, Captain Matthews, and Messrs. Randal, Lefferty and Beardsley, reported that "Richard Leonard," then sheriff (and to whom the law had entrusted a large discretionary power in the selection of jurors), "was present, countenancing the party committing the trespass"; that "both the Crown Officers were engaged in defence of the persons guilty of the outrage," and that "it is clear that a person long in possession of land, like the petitioner, ought to have been ejected by the law of the land, which is ample, when impartially administered, for securing the rights of property, but the interference of the military, by such acts of violence for maintaining supposed or contested rights, is justly regarded with jealousy in all free countries, and ought to be seriously regarded in a colony where the most unprecedented outrages have been perpetrated without prosecution, and even followed by the patronage of the local government upon the wrong doers."

30 9. That Mr. Forsyth applied by petition to His Majesty, and that Mr. Mackenzie, a member of this Committee, at his special request, brought the affair under the immediate notice of the Colonial Department in 1832.

10. That the House of Commons addressed His Majesty in its Session of 1832, and again its Session of 1833, for "Copy of the Reports of two Select Committees to whom were severally referred petitions addressed to the House of Assembly of Upper Canada, in the Session of the Provincial Legislature, 1828, complaining of



"improper conduct on the part of Captain George Phillpotts of the Royal Engineers, "and other wrongs, and of the administration of justice; with the evidence "attached to these reports, as presented to the House on the 24th March, 1828, by "Mr. Rolph and Mr. Beardsley, with the proceedings of the House in the case of "Colonels Givins and Coffin, heads of Departments, who were sent to gaol for "refusing to give testimony in the matter of Capt. Phillpotts, they severally "alleging to the House that the Major-General, then commanding, would not "permit them to attend; together with the proceedings, if any, which have been had "thereon by His Majesty's Government, or the local authorities." And that these 10 documents were accordingly transmitted by His Excellency Sir John Colborne, and ordered to be printed by a resolution of the Commons House of the Imperial Parliament.

11. That it appears on a reference to the despatch of Sir Peregrine Maitland addressed to Mr. Secretary Huskisson, on the 29th of March, 1828, that it contained a gross and unwarrantable attack upon the rights, privileges and character of the House of Assembly, and a committee of its appointment, and that the secrecy of a confidential communication from the Lieutenant-Governor of this colony was taken advantage of to slander and traduce the character of Mr. Forsyth to his sovereign, as "a person notoriously of indifferent character."
- 20 12. That the conduct of Sir Peregrine Maitland in these proceedings was justly condemned by Secretary Sir George Murray, as appears by his despatch to Lieutenant-Governor Sir J. Colborne, dated October 20th, 1828, of which a copy is hereto annexed.
13. That it appears from Mr. Forsyth's petition, that harrassed as he had been by illegal proceedings and wearied with fruitless applications for redress, he concluded to dispose of his valuable estate, for less than it was worth, and that no compensation has been made him for the injuries he sustained by the unlawful proceedings taken against him by authority of the late Lieutenant-Governor.
14. That in a letter to Colonel Rowan, dated the 31st of December, 1832, Chief Justice Robinson, after giving a description of Forsyth's estate, adds that "Mr. Forsyth does not now occupy any part of the property in question, having sold it to persons who, I am convinced, will never pretend that they have a right to enclose the public reservation to which he asserted a claim."
15. That Messrs. Clarke and Street, the persons who purchased the property from Mr Forsyth, have not only asserted their right to enclose it, but have also succeeded in obtaining a verdict for a trespass upon it.
16. That it appears from the accounts sent down to this House that £127 6s. 6*3*d. sterling, were paid to the Attorney-General last year, out of the funds raised by duties levied under the Act 14th George III., for "expenses incurred by him in



defending two suits with costs in reference to the Military Reserve near the Falls of Niagara."

Your Committee are of opinion that the petitioner William Forsyth hath sustained great injury at the hand of Sir Peregrine Maitland, and others acting under his authority, while he commanded the military force stationed in the Province; and that he is entitled to such compensation for the wrongs done him, as it may be within the power of government to afford, and they recommend, as the proper course to be pursued, that an address be presented to the Lieutenant-Governor, requesting His Excellency to bring the circumstances of the petitioner's 10 case under the consideration of His Majesty's Government, in order that that redress and remuneration may be afforded him, for which he has so long, and hitherto, so unsuccessfully applied.

WM. L. MACKENZIE, Chairman.  
T. D. MORRISON,  
DAVID GIBSON,  
CHARLES WATERS.

COMMITTEE ROOM, HOUSE OF ASSEMBLY, }  
April 1st, 1835. }

#### PETITION OF W. FORSYTH.

20

THURSDAY, 19th March, 1835.

The Committee met, and the petition of Mr. Forsyth was read as follows:—  
To the Honourable the Commons House of Assembly in Provincial Parliament Assembled.

The petition of William Forsyth, of Bertie, in the Fourth Riding of Lincoln, Yeoman,

#### HUMBLY SHEWETH:

That your petitioner, on the second instant, complained by memorial to His Excellency Sir John Colborne, in the following terms:—

Stating that in 1821, I (William Forsyth) bought from William Dickson, Esq., 30 lot 159, with broken front between it and the Niagara River, adjoining the Falls, also other parts of lots, that had been granted to one Francis Ellsworth about thirty-five years ago.

That in 1827 Captain Phillpotts, with a military force, violently and unlawfully wrested from me the valuable strip of land on the high bank and brow of the hill near the Falls, the said Phillpotts acting under the direction of Sir Peregrine Maitland; that my gardens and meadows were twice thrown open and my growing crops subjected to waste, my blacksmiths' shop destroyed and thrown over the hill; and that at least sixty acres of growing crops were more or less injured.



That I went to law for my damages and to defend my title; had varied success; was harassed many ways—injured in my circumstances, traduced in my character by the Lieutenant Governor, persecuted for the sake of my valuable estates, which others were anxious to obtain, and embarrassed in my business, because I had had fortitude to resist executive usurpation; that thus situated I resolved to sacrifice the whole Falls estate to those who were more likely than myself to obtain equal justice, and that I did so at a price at least \$15,000 less than its fair value, to the present owners, who had no difficulty in obtaining that justice in the premises which to me (a marked man) had been continually denied.

10 That your petitioner concluded his statement by praying that the Executive Government would compensate him for the injustice he had sustained, and received in reply an opinion, signed by the Attorney-General, referring to the documents printed by order of the House of Commons, 18th July, 1833, and affirming that the Government had not abandoned its claim to the property in question, and that if it appeared expedient to the constituted authorities it was his intention to proceed against Clarke and Street "by the information of intrusion." The Lieutenant-Governor in Council at the same time stated that the new proprietors were placed in your petitioner's stead by his sale to them.

Your petitioner has long waited for justice, and he refers to the several law suits 20 he has been engaged in, to his humble petitions to your honourable House, to the very favourable reports made on them by the three select committees, of which John Rolph, Esq., B. C. Beardsley, Esq., and the late Colonel Horner, were chairmen; to the attention paid to his case by the inquiries and addresses of the Honourable the House of Commons; to the evidence on the Journals of your Honourable House of Commons shewing that he has been the victim of lawless outrage and military violence; to his memorials to His Majesty; and to the many days he has passed in attendance upon the Legislature urging its interposition in his case.

Your petitioner has had his character traduced in the most indecent terms by the late Lieutenant-Governor in his secret communications to the Colonial Office; 30 your Honourable House has also been grossly misrepresented to His Majesty as a band of conspirators, and a report in your petitioner's favour emanating from some of the most honoured members of the Legislature was secretly denounced to our most gracious Sovereign by the then head of the Government here as a production "drawn in terms which gratify the malice of an individual or answer the temporary purpose of an unprincipled faction," meaning your Honourable House as it existed in the ninth Parliament.

Information as to the outrage committed at the Falls was withheld from your Honourable House by the express commands of the Lieutenant-Governor, who ordered his officers to disobey the summons of the House and to keep back the facts 40 by which the full extent of the atrocities practised by the military band under Cap-



tain Phillpotts would have been exposed; and although Colonels Coffin and Givins were imprisoned for contempt, the purposes of the enemies of justice were answered, and enquiry was smothered. In order to strike terror into the press and prevent it from exposing these high handed acts, a presentment was made against one of the editors of this city for expressing his detestation of the cruelty which had been practised towards your petitioner; and the then Surveyor-General joined the enemies of investigation by refusing to obey the order of the House or to give that evidence which would have elicited the facts in your petitioner's favour.

Your petitioner comes before your Honourable House as a man marked out by 10 the finger of authority to be oppressed with impunity, and humbly and earnestly implores your assistance, so that justice—tardy justice—may be done him, and the honour of the Crown and the rights of the subject (violated as they have been in his person) duly secured, asserted and maintained.

And your petitioner, as in duty bound, will ever pray.

WM. FORSYTH.

NIAGARA FALLS PAVILION, February, 1835.

EVIDENCE.

FRIDAY, 20th March, 1835.

Robert S. Jameson, Esq., Attorney-General, called in and examined.

20 Mr. Forsyth of Bertie, late the proprietor of the Niagara Falls Pavilion, has petitioned the House, complaining that at least \$15,000 have been lost to him in the sale of the Falls estate, by the opposition made to his claim to a certain part of that estate by the Executive Government, which claim has, he says, been abandoned by it, since he sold to Messrs. Clarke and Street. What information can you afford this Committee concerning his claim for redress?—

Answer.—Most of the circumstances to which Mr. Forsyth alludes took place before my arrival in this province, and are detailed in the documents appended to his petition now before me. With regard to the matters within my own knowledge relating to Mr. Forsyth's case, I cannot convey the information required of me by 30 the Committee more succinctly than by putting in an extract from the remarks made by me (4th February) upon Mr. Forsyth's petition to His Excellency, which he has partly set out in the one subsequently presented to the House of Assembly, and which is now before the Committee; my opinions upon the subject being the same as when those remarks were written.

The petitioner, in alleging that "the private company (to whom he states that he had sold his property at the Falls of Niagara) found little difficulty in obtaining from the Goverment that justice which had been continually denied to him," is evidently under a total misapprehension. He seems to suppose that the Government has abandoned to Messrs. Clarke and Street that which it saved for the public from



the intrusive appropriation of Mr. Forsyth himself. It is true that after having been by two verdicts, and judgments of the Court of King's Bench, decided to be a public reserve, Messrs. Clarke and Street, the present proprietors of the land adjoining, succeeded last year in obtaining a verdict for a trespass upon that small piece of ground on the bank of the river opposite the Falls, which was in 1798 specially reserved in the patent to Ellsworth; but that verdict was set aside by the Court of King's Bench, as being contrary to evidence. When this action of trespass came on to be re-tried at the last Niagara assizes, the principal, and in fact the only important witness for the defence, the surveyor who originally laid out the reserve before the 10 adjoining land was granted, did not obey the subpoena; he being, as he afterwards explained, just recovering from a dangerous sickness, and as the judge at Nisi Prius did not think it right to accede to my application to allow the case to stand over for a few days until he could attend, no evidence was offered. The verdict however in this personal action I considered as comparatively of little importance, since a suit was at that moment pending on the part of the Crown against Clarke and Street which would have conclusively settled the title to the land, and which then stood for trial, but from the absence of the witness above mentioned the record was for the present withdrawn. So far from entertaining any doubt as to the right of the Crown to the reserve in question, I am convinced that the claim now set up by Clarke and 20 Street is an unrighteous one; and unless it should be considered by the Executive Government, for any reason not at present apparent, to be inexpedient, it is my intention to proceed against those gentlemen by the information of intrusion, which I was, for the reason I have just stated, obliged to withdraw. "The Committee will observe therefore that the Government has not abandoned the claims since the sale of the property to Messrs. Clarke and Street; but on the contrary has expressly sanctioned the proceedings adopted for the vindication of what it conceives to be the right of the public to the reserved chain on the top of the bank opposite the Falls of Niagara, which the Government is desirous to keep open as an approach to the view of the Falls.

30      Gilbert McMicking, Esq., M.P.P. for Lincoln, called in and examined.

A petition has been referred to this Committee complaining of great wrongs done to Mr. Forsyth of the Niagara Falls, by Captain Phillpotts and the military. What do you know of that transaction?—A gross outrage was perpetrated in defiance of the laws—it created very great excitement in the country, but no justice has been obtained against the parties. The transaction has placed the judiciary authority of this province not above suspicion.

David Thorburn, Esq., M.P.P., for the Falls of Niagara Riding of the County of Lincoln, called in and examined.

You presented a petition to the House from Mr. Forsyth, the late owner of the 40 Niagara Falls Pavillion, complaining that he had sustained great injury at the hand



of the Government, and that a violent outrage had been committed upon his property while at the Falls. What do you know respecting these matters? The general feelings of the country was opposed to the outrage by the Military, but I am not aware that Mr. Forsyth ever got any redress.

It appears by the accounts sent down to the Assembly this session that £  
sterling, have been paid out of the Provincial Revenue, without the consent of the Legislature, to the Attorney General for defending suits with respect to the title of the Crown to some part of the property claimed by Mr. Forsyth. Are you aware what steps Mr. Forsyth, or the persons he has sold to have taken in these lawsuits?  
10 I am not.

COPY OF A DESPATCH FROM MAJOR-GENERAL SIR JOHN COLBORNE TO VISCOUNT GODERICH.

UPPER CANADA, YORK, 11th January, 1833.

MY LORD,—I have the honour to forward to you the accompanying documents with reference to your Lordship's despatch of the 29th August, in which was transmitted a copy of Resolutions of the House of Commons, respecting certain petitions addressed to the House of Assembly of Upper Canada, in the session of the Provincial Legislature of 1828, and to acquaint your Lordship, that as the circumstances connected with Forsyth's petition could not be understood without a report from Chief Justice Robinson, who was Attorney General at the time Forsyth brought his action 20 for trespass, I have considered it necessary to call on the Chief Justice for such explanations connected with the affair as he might be able to afford and to forward them for the information of the House of Commons.

I have, &c.,

(Signed) J. COLBORNE.

LETTER FROM CHIEF JUSTICE ROBINSON TO LIEUTENANT-COLONEL ROWAN, SECRETARY, &c., &c.

YORK, 31st December, 1832.

SIR,—I have the honour to acknowledge the receipt of your letter, transmitting some Resolutions of the House of Commons, in consequence of which His Excellency the Lieutenant-Governor has been desirous to furnish copies of certain proceedings 30 in the Assembly of this Province, upon petitions preferred by William Forsyth.

In reply, I beg leave to state, that the specific call for information which the House of Commons has made, would be answered as it appears to me, by merely transcribing from the Journals of the Assembly the Reports referred to, and the evidence appended to them, and transmitting those papers to England. If the subject of His Excellency's reference to me is to obtain any further information on the subject of those complaints which it is in my power to give, I can have no objection to state such facts as are within my knowledge, according to the best of my recollection. The reports alluded to have not, so far as I am aware, engaged my attention



in this country, either in the Legislature or out of it, for some years. I have long ceased to think of them ; and it is more than three years since I filled the situation under the Government, which gave me official knowledge of the matters they refer to. It is therefore probable that some minor circumstances may have passed from my mind, but I apprehend the following statement will be found to be in substance correct.

The Township of Stamford, and the other townships on the River Niagara, as well as some other parts of this Province, were surveyed and laid out into lots before the division of the Province of Quebec into Upper and Lower Canada, some time 10 between the years 1785 and 1790, and while General Haldimand administered the Government of Canada. In laying out the lands on the River Niagara, a reservation of a chain in width (66 feet) was made along the top of the bank, partly, I think, with a view to the military defence of the province, and partly for the purposes of preserving a convenient communication.

The river, which in many places is of very moderate width, constitutes a boundary between us and the United States of America, and it no doubt occurred to the Government that, in the event of war, it might be necessary to construct batteries and other works upon the bank to repel invasion or to command the passage of the river. In the war which occurred in 1812, batteries were in fact constructed 20 at numerous points along the river.

In more recent surveys, made under the authority of the Government of Upper Canada, it has been thought obviously proper for other reasons, and independently of these considerations, to reserve to the Crown, for the public convenience, the space of a chain along rivers and other waters of far less importance than the Niagara ; such a reservation, by preserving the land open, affords to all persons access to the water, without trespassing upon the lands of private proprietors.

After General Simcoe assumed the government of Upper Canada as a separate Province (in the year 1792), the particular public reservation which had been made along the Niagara River in the original surveys, were designated and reported to him by the surveyor who had made those surveys under the authority of the government. Among these (for there were others at particular points), was the general reservation I have mentioned, of one chain from the top of the bank along the River Niagara.

The letters patent afterwards issued by the Provincial Government to the several grantees, specified this reservation or exception. It was a matter perfectly notorious and well understood, and no doubt or difficulty that I have heard of ever arose upon the subject for nearly forty years, and until Mr. Forsyth, in the year 1826 or 1827, took upon himself to inclose, with a high post and rail fence, the allowance or reservation of one chain along the bank of the river, in front of his own lands ; and 40 the effect of making this inclosure, in the place and manner in which it was made,

→ Re Leaned Chancellor  
judgment at page 40

was to exclude the public from access to the great natural curiosity, the Falls of Niagara, except such persons as he might permit to go through his house or premises to the bank of the river. Mr. Forsyth kept the principal inn at that time at the Falls, and owned the adjoining lands for a long distance along the river, including those points to which all strangers resort to view the cataract.

The public were annoyed at this act of Mr. Forsyth's, and applied by petition to the Lieutenant-Governor for redress. This petition I have seen, it was signed by the most respectable inhabitants of the country, and I think the Lieutenant-Governor was repeatedly applied to and the necessity urged upon him of having this unauthorized obstruction removed. I have now in my possession the statements made on oath and preferred to the Lieutenant-Governor by the keeper of an hotel in the vicinity, complaining of the oppressive consequences to him of the vexatious usurpation by Mr. Forsyth.

The reservation of a chain along the river had, it seems, been commonly regarded as made for military purposes rather than for civil, and looking upon it in that light, as I suppose Sir Peregrine Maitland, who then resided in the District of Niagara and within a few miles of the reserve in question, and who was then Major-General commanding, referred to the Engineer officer in charge in that district, and instructed him to see that the space was kept open, as it had been, and as it ought to be. This officer, Captain Phillpotts, after Mr. Forsyth had been requested in vain to remove his fence, thought himself bound by his instructions to see that it was removed, and taking a small party of soldiers, in their fatigue dress, he did, in the presence of Mr. Forsyth, cut or pull down the fence and throw open the land again to the public, and he also pulled down and removed a small blacksmith's shop made of boards, which had been placed on the reserve. No force was necessary for overcoming any personal resistance, for none was made. To prevent the possibility of encroaching upon Mr. Forsyth's property, Captain Phillpotts procured the attendance of a Mr. Jones, the very same sworn surveyor who had made the original official survey of the ground nearly forty years before, and it was of the land marked out by him as the public reservation that possession was taken. It appears also, that to prevent a mis-statement of his proceedings, Captain Phillpotts had requested the Sheriff of the District, who lives near the premises, to be present and observe what was done. The Sheriff did attend, but took no part. The soldiers, in obedience to their orders, pulled down the fence, and Mr. Forsyth, who was present, remonstrated and declared that he would prosecute for this trespass, as he called it, upon his property. The pickets and other materials not having been removed from the ground, Mr. Forsyth soon afterwards set up the fence again and excluded the public as before, and Captain Phillpotts again took it down, and with no additional circumstances of force, and no more direct resistance on the part of Mr. Forsyth.

For these two acts Mr. Forsyth brought civil actions, one against the Sheriff and Captain Phillpotts jointly for the first removal of the fence and building, and the other



against Captain Phillpotts alone for the second removal of the fence. Captain Phillpotts reported to Sir Peregrine Maitland that he had been thus prosecuted for acts done in obedience to the orders he had received, and I, being the Attorney-General at the time, was instructed to defend those suits, and to take the necessary measures for vindicating the right of the Crown. My first knowledge of the circumstances I have detailed above was acquired after I had been so instructed, and I relate the facts from my recollection of the evidence given afterwards upon the trial.

I pleaded specially to the actions in such a manner as to bring in issue the right of the Crown to the space of land in question. Mr. Forsyth took issue on that right, 10 not relying upon or asserting in his pleadings that any unwarrantable or excessive violence had been used, or any wrong committed in case the land was the property of the Crown, but simply denying that fact and asserting the property to be his. To set that point at rest in the most formal manner I filed an information of intrusion against him on the part of the Crown for his act in taking possession after the removal of his fence, and to this information he pleaded not guilty. Thus in three several actions or cases the opportunity was afforded of trying the question by juries of the country. It was fully investigated, and upon the clearest testimony decided against Mr. Forsyth's pretensions. He failed in his action against Captain Phillpotts and the Sheriff, and a verdict was rendered against him on the information of 20 intrusion. Upon this verdict judgment was entered, and a writ of *amoveas manus* sued out and executed. Upon the trials he maintained his pretensions to the grounds inclosed by giving a particular construction to the words "top of the bank," and endeavouring to apply them to the top of the lower bank, confining the river at an inaccessible point, and to which lower bank no person could pass from what is actually the "top of the bank," and more especially after he had inclosed the space in question.

This construction, repugnant to reason, was clearly repelled by various proofs, and especially by the evidence of the very surveyor, still living, who laid out the ground in the year 1786, who was examined as a witness at the trial, and whose 30 explanations were confirmed by a survey recently made by another most respectable surveyor. It was proved that the lines of the lots, as originally marked out, were never produced further than within one chain of the high bank or commencement of the table land and moreover the actual contents of the lots themselves furnished internal evidence of this fact.

I have also in my possession the evidence, on affidavit, of a man still living, who was chainbearer on the original survey, and of another respectable inhabitant of the Province who was residing in Stamford at the time. This additional testimony I became accidentally aware of since the trials, and they are conclusive, as it seems to me, upon the point at issue.

40 It was while his action against Captain Phillpotts and the Sheriff was pending, and a few months before it was to be tried, that Mr. Forsyth made these statements to  
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the Assembly, the natural effect of which would be to elicit a discussion calculated to inflame the public mind, by exciting a jealousy of military interference, and from this excitement he probably expected an advantage in his contest with the Government upon the question of right. His petition was entertained and referred to a Select Committee, who received such evidence as they chose and made the report upon it which appears upon their Journals. It will be seen that this report was brought in at the close of the Session; no question upon its reception was ever moved in that body, nor were the opinions expressed on it made the subject of discussion or vote. It has, therefore, no other sanction than the opinion of the committee upon an *ex parte* hearing; and if I am entitled to assume that truth must be regarded in a legislative body, I may venture to assert that such a report could not have been approved if it had been made the subject of open discussion. In the face of whatever attempts were made by the petitioner to excite prejudice, the jury came to the conclusion I have stated. The notes taken of the evidence by the Judge who presided at the trial have most probably been preserved by him, and a copy might be procured if for any purpose it should be desired.

I will add further, that no exception to the verdict of the jury was attempted to be raised by Mr. Forsyth, no new trial was moved for. In the four years that have elapsed since, I do not recollect that in the Legislature or elsewhere, the subject has excited any interest. Mr. Forsyth does not now own any part of the property in question, having sold it to persons who, I am convinced, will never pretend that they have a right to enclose the public reservation to which he asserted a claim.

With respect to the reasonableness of the complaint as to military interference, I think it would be difficult to find, in His Majesty's service, an officer less open to the imputation of arbitrary conduct, and a disregard of civil rights than Sir Peregrine Maitland. When he took the step complained of, he was doubtless sufficiently aware how easy it is, in a certain temper of men's minds, to make a trifling matter the cause of an unjust excitement; and had he thought of nothing but his own ease *30* he would probably have declined giving any direction to the Engineer Officer to remove the nuisance complained of, and he might have told those who petitioned for his interference, that they must submit to Mr. Forsyth's encroachments upon the public right, and await the result of an information for intrusion. An individual whose property had been thus trespassed upon would have had a clear right by law to abate the nuisance, and it seemed no unreasonable expectation that the Government should protect its rights as fully and promptly as individuals may. It was the natural impatience of the public, under the vexatious act of Mr. Forsyth, that led the government, for their sake, to the measure which occasioned, for a time, no little trouble.

*40* Whether it would have been more judicious in Sir Peregrine Maitland to have taken any other course, I need not presume to offer an opinion; having known



nothing of the act complained of till after it had taken place, no responsibility rested with me as Crown Officer; and so far as respects any legal question, I need assume no responsibility now; but without pretending to decide the matter in its strictly legal point of view I must say I have not much doubt that if, in any part of England or in the United States of America, an intruder were to insist on incumbering a barrack square with his waggon, or were to plant posts and rails in a parade ground, the nuisance would be removed under the direction of an officer on the spot.

The House of Commons has also called for information respecting the proceedings of the Assembly of this Province in the case of Colonels Givins and Coffin,  
10 heads of departments, who were sent to gaol for refusing to give testimony in the matter of Captain Phillpotts, they severally alleging to the House, that the Major-General then commanding would not permit them to attend; together with the proceedings, if any, which have been had thereon by His Majesty's Government, or by the local authorities.

I was Attorney-General at that time, and have a general recollection of the matter here referred to. In that Session of the Legislature (1828) as will be seen by inspection of the Journals, there were a number of Select Committees conducting inquiries into various public matters. It had been the constant usages of the Assembly in past years, when any of their committees desired that an officer of the Government should attend them as a witness, to send an address to the Lieutenant-Governor, communicating their wish and specifying the subject on which the evidence of the witness was required. The order then proceeded as a matter of course, from the Lieutenant-Governor to the officer, to attend the Committee. Whether this was the proper course, having a due respect to the privileges of the different branches of the Government, or whether it was wholly unnecessary courtesy, I do not pretend to determine, but it had been usually, if not invariably followed. One of the select committees in this session required the evidence of Colonel Coffin, the Adjutant General of Militia, and of Colonel Givins, the Chief Superintendent of Indian Affairs; and instead of addressing themselves to the Lieutenant-Governor, as had  
30 been usual, the Select Committee sent, it seems, a summons directly to those gentlemen. I do not mean to say, speaking as I do merely from memory, that this was the first instance of the variance from the former usage spoken of; but at all events the departure from that usage was of very recent date, and the officers in question having received the summons, reported the fact to Sir Peregrine Maitland, and prayed his instruction. The object of inquiry (unless I am much mistaken) was not stated in the summons, and the Lieutenant-Governor and Commander of the Forces, in whichever capacity Sir Peregrine Maitland conceived he was acting, (and considering the nature of the duties discharged by those officers, or by one of them, certainly I suppose he acted in the former) being left quite uninformed on that point, desired them not to  
40 attend, meaning I take it for granted, by that course to insist upon the right of being made acquainted with the subject of investigation upon which the testimony of



these public officers was desired. Colonels Givins and Coffin obeying the orders of the Lieutenant Governor, did not attend. The Assembly resolved that their refusal was a contempt, and committed them. They afterwards brought an action of false imprisonment against the Speaker, but they did not recover, for the legality of the imprisonment, that is the right of the House to commit for what they had adjudged to be a contempt, was confirmed by the Court of King's Bench by a solemn judgment rendered in another cause then pending which involved the same question.

If, in making this statement from memory, I have fallen into any error, a reference to the Journals will perhaps correct it; and as Sir Peregrine Maitland is now in England, if I have misapprehended or have stated imperfectly the grounds on which he acted, he can of course more correctly explain them.

I observe it is stated in the resolutions of the House of Commons, that the officers referred to were required to give evidence in the matter of Captain Phillipotts.

I am not under the impression that any connection between the two matters was expressed in the notice given to the officers to attend, or was understood at the time of the occurrence, though, of course, the Select Committee and the Assembly were aware of it, and the Government must soon after have known it, if they did not at first. But however, this may be, I am satisfied that no desire to keep from the Select Committee any information that Colonel Givins or Colonel Coffin could give respecting Captain Phillipotts or Mr. Forsyth, could have had the slightest influence with the Lieutenant-Governor. I cannot see how there could have been any room for such a motive; I do not recollect that I ever exchanged a word with either of those gentlemen on the subject of Mr. Forsyth's complaints; but from the very nature of the thing, from their duties and characters and occupations, I am persuaded in my own mind that, whatever Mr. Forsyth may have imagined, they could have had nothing more to tell respecting that transaction that could affect either the Lieutenant-Governor or Captain Phillipotts, than any two officers that might have been taken at random from any regiment at that time in His Majesty's service. The House of Assembly did not in any subsequent session require their evidence on any complaint of Mr. Forsyth's, and if they did in fact know anything that Mr. Forsyth himself considered important, it was singular that they were not heard of upon the trial which afterwards took place, when their evidence must have been most material if it could have affected either his rights or the amount of damages which he claimed, and when their attendance could have been procured as a matter of course upon an ordinary subpoena.

In one of the petitions of Mr. Forsyth, there are reflections cast upon the administration of justice in this province, and particularly upon the conduct of the Crown Officers, upon whom the duty is imposed of conducting criminal prosecutions in the courts of Oyer and Terminer, and in the evidence given by him before the



Select Committee, Mr. Forsyth has made certain statements affecting myself individually.

For more than sixteen years before that time, I had discharged, with one or two short intervals, the duty of Attorney-General, and there could scarcely be much foundation for the remarks made upon the administration of justice, without my being implicated considerably in the misconduct spoken of.

Whatever countenance may be considered to have been given to these complaints of Mr. Forsyth by the report of the Select Committee of the Assembly, and through whatever channel and for whatever purpose these matters are now brought 10 under the notice of the House of Commons, I hold myself bound to prove and ready to prove, upon any investigation conducted upon those common principles of justice which regulate the most inferior tribunals in this country, that, as applied to myself, the charges and insinuations are utterly groundless, and I undertake, at this distance of time to repel satisfactorily the attempt to justify them by any one act of mine during the whole course of my public service as Crown Officer.

In respect to the assertions of Mr. Forsyth, which expressly apply to myself personally, the evidence of the Honourable William Dickson and of the Honourable Thomas Clarke, printed in the appendix to the Journals of the same session, will show to what credit they are entitled.

20 I will only add, what indeed I have already stated, that the report of the Select Committee was never adopted or discussed, or in any manner acted upon in the Legislature of this Province. Against the act of a Select Committee in receiving evidence, and reporting it, by which means it becomes printed in the Journals, there is no remedy; but although the Assembly neither in that time nor in the four years that have since elapsed, brought Mr. Forsyth's statements to the test of a public discussion, or of a satisfactory investigation, if the House of Commons has leisure and inclination to examine into my official conduct or private transactions, I shall be happy indeed to undergo the scrutiny; and in the meantime, I content myself with affirming, that His Majesty has no officer in his service, civil or 30 military, in any part of his dominions who has kept himself more entirely free from any pecuniary or private transaction that could interfere with his public duty, or bring in question his character as a man than I have done to the present hour, and I shall be surprised if an individual can be found in the province of ordinary good character, whatever may be his political bias, who will assert the contrary.

I have, &c.,  
JNO. B. ROBINSON.

CAPTAIN PHILLPOTT'S STATEMENT RESPECTING THE REMOVAL OF THE FENCES, &c.,  
PUT UP ON THE MILITARY RESERVE, NEAR THE FALLS OF NIAGARA, BY MR.  
WILLIAM FORSYTH.

40 Mr. Forsyth, who purchased the farm immediately adjoining the Falls of Niagara some years since, on which he erected a large hotel, &c., having, without any per-



mission or authority whatever, taken upon himself to enclose a strip of land originally reserved by the Government for the purpose of securing a convenient access to the river at all times, and having wilfully destroyed a wooden causeway made on this reserve by a neighbouring innkeeper, Mr. J. Browne, for the accommodation of persons visiting the falls, so that the only convenient approach to this great natural curiosity was through his (Forsyth's) own house, all the most respectable inhabitants in the neighbourhood signed a petition to the Lieutenant-Governor, Major-General Sir Peregrine Maitland, requesting that the said reserve might be thrown open to the public.

10 In consequence of this application, His Excellency directed Captain Phillpotts, at that time commanding the Royal Engineers in that district, and therefore in charge of these reserves, to make a survey of the Government ground near the Falls, and remove any fences, &c., which had been placed thereon.

In compliance with these directions, Captain Phillpotts went to the spot, with a sergeant and four soldiers, in fatigue jackets, without arms, having previously visited the Falls for the purpose of calling on Mr. Forsyth, and informing him that he had placed his fences, &c., on the Government reserve; and having communicated to him the orders he had received on the subject, he informed him that he should be obliged to carry them into execution, unless Mr. Forsyth would remove the fences 20 himself, which he not only refused to do, but threatened to prosecute Captain Phillpotts if he touched them. In order to prevent the possibility of mistake, Captain Phillpotts had obtained Sir Peregrine Maitland's authority for availing himself of the assistance of Mr. Jones (a sworn surveyor, who originally laid out that part of the province, when the country was first settled), who, on this occasion, made a survey of this reserve, and pointed out its limits by pickets, for the guidance of persons employed to remove Mr. Forsyth's fences. This took place on about the 18th of May, 1827, and about four days afterwards, Captain Phillpotts, having occasion to visit the Falls, saw that these pickets had been taken away, and Forsyth's fence replaced on the reserve, which Captain Phillpotts caused to be again removed, and the reserve 30 to be marked out with pickets as before.

Major Leonard, the sheriff of the District, who resides near the Falls, having accompanied Captain Phillpotts to the ground, at his request, Mr. Forsyth brought a civil action against both of them for the alleged trespass, which was tried at Niagara, and a verdict was given for the defendants.

In consequence of his having again placed his fence on the Government reserve, the Attorney-General was directed by the Lieutenant-Governor to institute legal proceedings against Mr. Forsyth; a writ of intrusion was filed against him accordingly; and on a subsequent trial, a verdict was given for the Crown; and thus, on two different occasions it has been proved by juries composed of respectable yeomen of

Captain  
Phillipotts  
Statement  
of June 1833

18 Mo 27

the country, that Mr. Forsyth had no cause of complaint whatever against Captain Phillpotts, or the military persons employed under him on this occasion.

GEORGE PHILLPOTTS

January 9th, 1833.

*Captain, Royal Engineers, York, U.C.*

COPY OF A DESPATCH FROM LIEUTENANT-GENERAL SIR P. MAITLAND TO THE RIGHT  
HONOURABLE WILLIAM HUSKISSON.

UPPER CANADA, YORK, 29th March, 1828.

SIR,—During the session of the Legislature of this Colony which has just terminated, a proceeding has taken place upon which I am compelled to solicit, very 10 earnestly, the opinion of His Majesty's Government, that I may not be at a loss hereafter how to act under similar circumstances.

On the 16th inst., Colonel Givins, Superintendent of Indian Affairs, acting as head of the department in this Province, in the absence of the Deputy Superintendent-General, who resides at Quebec, and Colonel Coffin, Adjutant-General of the Militia, communicated to me, officially, that they had been summoned to attend a Select Committee of the House of Assembly, and they submitted to me the letters which they had respectively received from the chairman of the Committee, requiring their attendance, copies of which accompany this despatch.

It has been usual hitherto for the Assembly when they required information 20 from any public department under the Government, or the attendance of any civil officer, to address the Lieutenant-Governor on the subject, and I do not know that in any instance their request has not been complied with. In some cases, however, the request has been, in the first instance made to the officer whose attendance was desired, and who has obtained the leave of the Lieutenant-Governor, before he attends the Committee. The mode first mentioned has, however, generally prevailed, particularly during the last session, in the course of which I received three or four addresses for the attendance of different officers on Committees of the House.

Colonel Coffin, as Adjutant-General of the Militia, is, in time of peace, the head 30 of a department in the Civil Government. Colonel Givins is now, and has been for some time, acting as head of a department under the control of the Commander of the Forces. The former conceived he was following the proper and ordinary course in applying to me, as Lieutenant-Governor, for permission to attend the Committee of the Assembly; the latter was led by a sense of duty to apply for the same purpose to me as Major-General Commanding the Forces in the Province; and they severally sent to the Chairman of the Committee a communication of which I enclose a copy, informing him that they had applied for leave to attend.

For reasons which I shall presently explain, I thought it right to give to the application of these officers the answers which I enclose; they consequently did not attend, but acquainted the Chairman of the Committee that they were not permitted

To Peregrine  
Mactland's  
Despatch 29 March 1828

to do so. On the 23rd inst, the Chairman of the Committee reported to the House of Assembly that Colonel Givins and Colonel Coffin had not attended, and the House avoiding any communication with me, directed warrants against them to be issued by the Speaker, that that they might be brought up in custody of the Serjeant-at-Arms. Of the intention to issue the warrants the two officers were apprized, and as I did not think it proper that the government should interpose in that stage of the proceeding, they were directed entirely by the advice of the professional gentlemen whom they chose to consult. Acting under this advice, they declined voluntary submission to the warrant, declaring that force must be resorted to, and intimating  
10 that if such force were used, they would prosecute the Speaker.

They were taken on the same day, the 22nd instant, having submitted without resistance, after the house in which they were had been forcibly entered; and being brought to the bar of the Assembly, and charged with a contempt in not obeying the summons of the Chairman of the Select Committee, they stated in their vindication that they had applied for permission to attend, and had not received it, and Colonel Coffin read the letter which I had directed to be written to him in answer to his application. The resolution which is transmitted, was then moved and adopted in the House, 21 voting for it and 11 against it, after two amendments had been negatived.

20 The Speaker thereupon made his warrants of which copies are transmitted, and Colonel Givins and Colonel Coffin were received in custody by the Sheriff the same evening, and remained in prison until the 25th instant, when the Legislature was prorogued in the ordinary course, and according to an intimation which I had given to the two Houses, through their Speakers, many days before.

*where is this*

The 23rd March being Sunday, Colonels Givins and Colonel Coffin reported to me on Monday what had taken place in consequence of their declining to attend the Select Committee, and I sent a message to the Assembly on the same day, of which I transmit a copy. No proceeding was had upon this Message, and you will perceive that in the speech with which I closed the session, and which I also send to you, I  
30 avoided mixing up this disagreeable occurrence with the general business of the Legislature. I chose rather to make it the subject of a separate Message, and to forbear in that Message to advance topics or employ language that might produce irritation, and unnecessarily implicate the feelings in a question which I look upon as exceedingly important.

Since the session, Colonel Coffin has addressed to my secretary a letter, of which I enclose a copy. I have referred to the Executive Council on the subject, and transmit their report, in which I entirely concur.

I have thus laid before you the whole case, and I shall be most anxious to receive your opinion upon it; and in order that that opinion may, as much as possible,  
40 serve me for a direction in a very delicate, but important point of duty, I am desirous



that it should be formed upon as general a view as can possibly be taken of the question.

I will refer to the Governors of other colonies to learn what usage has been obtained in them; but my belief is that in other Colonies as well as in this, it has been the practice for the Assembly to apply to the Governor by Address, when information is wanted from any public department, or when the attendance of a public officer is desired.

When a Select Committee of the House of Assembly here desires the attendance of a member of the Legislative Council, or any officer or servant of that House the course uniformly pursued is to request it by message, and not by directly summoning the individual. If courtesy leads to this practice, I see no reason why the same courtesy should not be extended to the third branch of the Legislature; and if it has prevailed rather from a sense of its necessity in order that the business of the Legislative Council may not be unreasonably interrupted by a compulsory abstraction of their members and officers, it seems to me that the same reason would apply with equal force to the Executive Government, which is constantly in operation, and whose functions may be very inconveniently suspended, if without any reference to the head of a government, the principal of a department, or even subordinate officers, can be withdrawn and detained at the pleasure of a Committee 20 of the Assembly.

There are, however, other considerations which apply peculiarly to the Executive Government, and which, although they will not fail to occur readily to your mind, I feel it my duty to lay especially before you.

Few sessions elapse in which the Assembly does not call upon the Government for information, which is sometimes granted and sometimes refused, according to the nature of the request. For instance, they have not unfrequently called for an account of the receipt and appropriation of the Casual and Territorial Revenue of the Crown. My instructions are not to comply with such a request until I have ascertained the purpose for which the information is desired, and have referred to the Secretary of State upon the subject; but if the Assembly can, without communicating with the Lieutenant-Governor, summon the Receiver-General or the Inspector-General of Accounts, or any of their clerks, to attend a Select Committee and compel their attendance at the peril of imprisonment, the Government here or in England has no longer any discretion to exercise. Then with respect to the military service, it does not seem to me possible that a Select Committee of the Assembly can, for the purpose of enquiring, perhaps, into some alleged irregularity in garrison, or want of discipline in a regiment, which they have nothing to do with, or for any other purpose, compel the attendance of any military officer upon pain of imprisonment, and that his superior officer should have no discretion in granting or withholding permission, whatever 40 may be the exigency of the service.



I should be most happy to learn what in such case is the usage of England, though it may by no means follow that the usage of Parliament there is in all things to be adopted here, or that it can be legally introduced and enforced.

The 31st Geo. III will show for what purposes the Legislature of this Province was constituted, and what powers are given to it. It has never been conceived that one of these powers was to prefer impeachments, because the Legislative Council has no power to entertain them or dispose of them. If, therefore, the professed object of any enquiry by a Select Committee is to ascertain the truth of a complaint against individuals, it is to be borne in mind how obviously and securely such an inquiry may be perverted to serve the purposes of faction, and may be made the instrument of the greatest oppression and abuse.

A Select Committee, composed of members named at the request of a petitioner, receives an *ex parte* statement of a case, summons only such witnesses as it pleases, records their testimony, given without the sanction of an oath, and not under the restraint of any responsibility whatever. Upon this evidence a report is drawn, in terms which gratify the malice of an individual, or answer the intemperate purpose of an unprincipled faction, by aspersing the fairest characters among their opponents. The individual injured has no redress. He cannot prosecute the conspirators in a court of law. The committee who manage the inquiry are not sworn, as courts are, to decide justly, and when they have made their report, no ulterior proceeding is within the power of the party injured for vindicating his character; no impeachment can follow, and he cannot therefore obtain relief from the unjust accusation. The use of this engine for party purposes has commenced in the present Assembly, but the length to which it has been carried in the last session, during the unfortunate absence of eight or nine members of the Assembly, has been quite an innovation, and one which I feel it my duty to bring, without loss of time, under the notice of His Majesty's Government.

Perhaps a stronger case could not well be imagined than that which has formed the ground work of the particular proceeding which I have described. A Mr. Forsyth, a person notoriously of indifferent character, had taken upon himself to enclose part of a public reserve, of a chain in width, along the bank of the River Niagara. My attention was particularly called to the circumstance by a petition from some of the inhabitants of the country, who complained of being thus shut out from the river by the illegal act of an individual. I directed the Commanding Engineer to survey the reserve along the river and throw it open to the public. No one but Mr. Forsyth raised any objection. He was remonstrated with in vain; he was asked to remove his fences, but refused; he was told he should have men to assist him, but would not consent; and at length, without any personal violence being offered or threatened, the Engineer, with a fatigue party, threw down the fences. The Sheriff 40 of the District was present. Mr. Forsyth brought actions of trespass against the Engineer officer and the Sheriff, whom I have directed the Crown officers to defend.

J. P. Macland  
Despatched  
29 March 1828

The ground work of the  
particular proceeding  
petition - Thos. Clark & others page 198 ante

He replaced the fences, and the Attorney-General, in consequence, filed an information of intrusion against him, which he defended, and upon a full trial by a jury a verdict was rendered for the Crown, thereby establishing the right which had been disputed. The civil actions, from an error in the plaintiff's proceedings, are yet undecided, and while they are depending in the courts of law, Mr. Forsyth petitions the Assembly, complaining of what he terms a grievous outrage, in language calculated to influence public feeling, by describing the act as a lawless, high-handed exercise of military power. This petition is referred to a Select Committee; his Counsel in his proceedings at law for the same alleged injury, happening to be a member of the Assembly, is named upon the Committee, and upon the *ex parte* statement of his client and other witnesses, not on oath, frames a report in direct opposition to the verdict of one jury who have tried the point and intended, as it must be supposed, to influence those verdicts which are yet to be rendered. This report when made becomes a public document and finds its way into the public papers, and thus, upon a question of boundary and legal right, which has yet to be tried, the parties have to encounter whatever weight a prejudice so excited can throw into the scale.

I am well aware that in England no such case could occur, because a sense of justice would prevent it; but when civil or military officers under my Government are summoned in the mere hope that they may know something that may turn to account at the trial, and in order, it may be, to find out evidence to be made use of in a court of law, I feel it quite necessary that I should know whether, with or without permission from the Government, their attendance can be compelled.

You will confer upon me a great favour by putting me, as soon as may be convenient, in possession of your sentiments upon the matters stated in this despatch, and I feel that the questions they involve are of the greatest moment to the administration of justice and to the honour and stability of the Government.

I will not further swell this despatch by the transmission of any official report from the Law Officers of the Colony on the subject to which it has reference, but will content myself with adding that I have not failed to ascertain their opinion, 80 which entirely agrees with the sentiments expressed in this letter.

I have, &c.,

(Signed,) P. MAITLAND.

LETTER FROM B. C. BEARDSDEY, ESQUIRE, TO COLONEL GIVINS, INDIAN DEPARTMENT.

COMMITTEE ROOM, COMMONS HOUSE OF ASSEMBLY, }  
14th March, 1828.

Whereas the House of Assembly have appointed a Committee to inquire into and report upon the petition of William Forsyth, of Stamford, for inquiry into crime and outrage, with power to send for persons and papers, you are hereby required to



attend the said Committee in the Committee Room of the House of Assembly, at noon to-morrow.

(Sgd.)                  B. C. BEARDSLEY,  
*Chairman.*

LETTER FROM COLONEL GIVINS TO B. C. BEARDSLEY, ESQ., CHAIRMAN.

YORK, 15th March, 1828.

I received your notice this morning to attend a committee of the Honourable House of Assembly this day at noon, and in consequence thereof have made application to His Excellency the Major-General commanding, for his permission for that purpose, but have not as yet received an answer thereto.

I have, &c.,  
(Sgd.)                  J. GIVINS,  
*Supt. Indian Affairs.*

LETTER FROM G. HILLIER, ESQ., TO COLONEL GIVINS, INDIAN DEPARTMENT.

GOVERNMENT HOUSE, YORK, }  
18th March, 1828.

SIR.—Having laid before the Lieutenant-Governor and Major-General commanding the summons which you had received to attend a committee of the House of Assembly appointed to inquire into and report upon the petition of William Forsyth, I have received his command to acquaint you that he cannot give the permission desired by you, not knowing what are the matters of which Mr. Forsyth complains, or what are the facts in regard to which it is desired to interrogate you.

I have, &c.,  
G. HILLIER.

LETTER FROM B. C. BEARDSLEY, ESQ., TO NATHANIAL COFFIN, ESQ., ADJUTANT-GENERAL OF MILITIA.

COMMITTEE ROOM, COMMONS HOUSE OF ASSEMBLY, }  
14th March, 1828.

Whereas the House of Assembly has appointed a committee to enquire into and report upon the petition of William Forsyth, of Stamford, for inquiry into crime and outrage, with power to send for persons and papers, you are hereby required to attend the said committee in the Committee Room of the House of Assembly, at noon to-morrow.

(Sgd.)                  B. C. BEARDSLEY,  
*Chairman.*

LETTER FROM N. COFFIN, ESQUIRE, TO B. C. BEARDSLEY, ESQUIRE, HOUSE OF ASSEMBLY.

ADJUTANT GENERAL'S OFFICE, YORK, }  
15th March, 1828.

40                  SIR.—I received your notice this morning to attend a Committee of the Honourable House of Assembly this day at noon, and in consequence thereof, have



made application to His Excellency the Lieutenant-Governor for his permission for that purpose, but have not as yet received an answer thereto.

I have, &c.,

(Sgd.) N. COFFIN,

*Adjutant-General of Militia, Upper Canada.*

LETTER FROM N. COFFIN, ESQUIRE, TO MAJOR HILLIER, PRIVATE SECRETARY, &c., DATED  
22ND MARCH, 1828.

YORK, 22nd March, 1828.

SIR.—I beg leave to request that you will communicate to the Lieutenant-Governor that, in obedience to the communication I received through you that His Excellency could not give me permission to attend a Committee of the House of Assembly for the reasons therein stated; that I did not attend the said Committee, and that in consequence thereof I have been committed this evening to the Common Jaol of the Home District by order of the House of Assembly. I have therefore to pray that His Excellency will be pleased to direct, that I may have the advice and assistance of the Crown Officer to enable me to take such steps as I may be instructed on the occasion.

I have, &c.,

N. COFFIN,

*Adjutant-General of Militia.*

20

IN COUNCIL, 3rd April, 1828.

The Council having reviewed their report of the 26th March last, upon the subject of the within letter, respectfully beg leave to withdraw the same, and upon mature consideration, the Board cannot advise that the Government should interpose to give any directions to the Crown officers as within solicited.

No. 3.

COPY OF A DESPATCH FROM SECRETARY SIR G. MURRAY, TO MAJOR-GENERAL  
SIR JOHN COLBORNE, &c., &c., &c.

DOWNING STREET, 20th October, 1828.

SIR.—I have the honour to acknowledge the receipt of Sir Peregrine Maitland's despatch of the 29th of March last, detailing the proceedings of the House of Assembly of Upper Canada against Colonel Coffin and Colonel Givins for contempt of the privileges of that House, in refusing to obey the summons of the Chairman of the Select Committee, and requesting instructions for his guidance under similar circumstances.

From the statement of the Lieutenant-Governor, I am led to infer that there were adequate grounds for inquiry by the House of Assembly into the grievances complained of in Mr. Forsyth's petition, of having been dispossessed of lands in his occupation by a military force, acting under the express command of the Lieutenant-



Governor ; and the chief reason adduced by the Lieutenant-Governor for not allowing Colonels Givins and Coffin to attend the committee is stated to have been that he did not know the nature of Mr. Forsyth's complaint, nor the facts in regard to which the evidence of the officers was required.

As no direct notification had been made to the Lieutenant-Governor, in a certain technical sense, he did not know the nature of the complaint, yet as he must have inferred that the Committee proposed to examine these officers respecting the employment of a military force for ejecting Forsyth from the land, I cannot but consider that Sir Peregrine Maitland would have exercised a sounder discretion had he permitted the officers to appear before the Assembly ; and I regret that he did not accomplish the object he had in view in preventing Forsyth's encroachments by means of the civil power, which is said to have been at hand, rather than by calling in military aid.

I have, &c.,  
 (Signed) G. MURRAY.

No. 4.

COPY OF A DESPATCH FROM MR. SECRETARY STANLEY TO LIEUTENANT-GENERAL  
 SIR P. MAITLAND, &c., &c., &c.

DOWNING STREET, 20th June, 1833.

20 SIR,—Certain papers having been moved for in Parliament, in which some part of your conduct as Lieutenant-Governor of Upper Canada is animadverted upon, I have considered it due to you to refer these papers for your consideration, in order that you may have an opportunity of affording any explanation upon them which you may think necessary.

I am, &c.,  
 (Signed) E. G. STANLEY.

No. 5.

COPY OF A LETTER FROM LIEUTENANT-GENERAL SIR P. MAITLAND TO MR.  
 SECRETARY STANLEY.

30

LONDON, June 24th, 1833.

SIR,—I have the honor to acknowledge, with thankfulness, the sense of justice which has led you to submit to me a despatch from Sir George Murray, when Secretary of State, to Sir John Colborne, of 20th of October, 1828, previously to laying it before the House of Commons.

However strange the statement may appear, I was altogether unaware that such a document existed. By it, I am now for the first time, made acquainted with Sir George Murray's animadversions on certain acts of my Government.

As my despatch of the 29th of March, 1828, on which the opinions of the then Secretary of State are grounded, was written expressly with the view of obtaining

To Peregrine Maitland  
Letter London 24 June 1833

instructions on a very delicate and important question, and not for the purpose of giving a full detail of transactions, nor of justifying my measures, the propriety of which had not been called in question, circumstances were naturally omitted by me that would have been necessary for the latter objects, but not for that which I had principally in view.

I shall therefore avail myself of the opportunity you have offered me, to supply, as well as my memory will enable me at this distant period of time, a few circumstances that seem to have been omitted, and that may tend to place those matters which have been commented on in a truer light

10 Mr. Forsyth, an innkeeper, having taken upon himself to enclose with a high fence a Government reserve, consisting of a chain in width along the bank of the River Niagara, and which afforded the public free access to the principal Fall of the river, I was repeatedly solicited, by petition and otherwise, to cause the obstruction to be removed. In consequence of these solicitations I directed the Officer of Engineers who had charge of the reserved lands to survey the government property near the Falls, and remove any obstruction that had been placed on it. These objects were carried by him into effect, with the assistance of three or four of his men, without arms, in their working dress, and with the temper and caution he was enjoined to observe.

20 In the suits instituted by Mr. Forsyth against the Officer of Engineers it was incumbent on the plaintiff to establish one or two points to entitle him to a verdict, namely, that the defendant had done that which, by law, he was not authorized to do, or that in doing that which by law he was authorized to do he had done unnecessary injury to the plaintiff's property or possession. Both these points were distinctly submitted to the jury, and both were determined against the plaintiff. Mr. Forsyth, therefore, no doubt regretted, as well as Sir George Murray, the manner in which this intrusion on the public property had been removed, of course, for reasons that did not lie in the same direction.

Can it be seriously believed, that had any other course been taken, Mr. Forsyth or his counsel, would have found in it less cause for complaint, or have been less industrious in endeavouring to excite clamour about it? It is certain, however, that their efforts could not have been less successful.

After a verdict had been obtained for the Crown, and while the civil suit was pending against the Officer of Engineers, every attempt was made to prejudice the public mind. Mr. Forsyth petitioned the Assembly, complaining of what he termed a grievous outrage, describing the act as a lawless, high-handed exercise of military power. This petition was referred to a Select Committee, of which his counsel in the proceedings at law was appointed member and elected chairman, and, on the *ex parte* statement of his client and other witnesses, not on oath, framed a report in direct opposition to the verdict that had been rendered and intended, as it must be supposed to influence that which was yet to be given.



This report, when made, became a public document, and found its way into the public papers; and thus, upon a question of right, which had yet to be tried, the party had to encounter whatever weight a prejudice so excited could throw into the scale. The jury, however, gave their verdict for the defendant as I have already stated.

It is rather singular, that nearly at the same time, an intrusion on the public property in the town of Washington, in the neighbouring Republic, had attracted attention. The obstruction in that case was removed by a party of the military, escorted by a company of soldiers fully armed. A circumstantial narrative of the occurrence was given in the papers of that country; but in no instance, I believe, accompanied by any expression of disapproval.

To proceed to Sir George Murray's observation, that I should have exercised a sounder discretion had I permitted Colonels Givins and Coffin to attend the Select Committee, I concur entirely with Sir George Murray in thinking that it would have been advisable to do so had the Committee, as was usual, applied to me to direct their attendance. It was very well known that they could give no more information respecting the alleged outrage complained of by Mr. Forsyth, than any military officers selected at random from any part of the Province. It was no wish to withhold information, therefore, that influenced me in this matter, and I did not fail to take care that the Committee should have reason to be assured that, in the event of the usual application being made to me, the officers would be desired to attend.

It was scarcely therefore to be anticipated that the Assembly, so near the period which had been notified for the close of the session, many members having already returned to their homes, would without any previous communication made to me, be led to take the course which they adopted, a course so likely to be, as it actually was, attended with very general reprobation.

Sir George Murray remarks, that the chief reason adduced by me for not allowing the officers to attend the Committee is stated to have been that I did not know the nature of Forsyth's complaint, nor the facts in regard to which the evidence of those officers was required.

I stated this as a reason (not the chief reason) for it was calculated, if submitted to the Committee, to remind them that it had been usual, in similar cases, to apply to the Lieutenant-Governor, and in doing so, to furnish him with information on certain points.

Before I acquiesced in the course which had been taken by the Committee, it doubtless became incumbent on me to consider well what might be the effect of my acquiescence at any future period. In doing so, it appeared to me that the security of the Colony, in the strongest sense of the term, would be affected, and that objections against the measure might be adduced as important as undeniable; but they were not for obvious reasons, such as I could properly submit to the Assembly, or



state in a despatch which would probably be submitted to that body. I am always ready to state them, if called upon by His Majesty's Government to do so.

It has of late years grown into a practice to submit the official correspondence had with the Colonial Office to the Legislature of the Colonies, if called for by them, unreservedly.

The Lieutenant-Governor of a Colony must therefore necessarily exercise a greater degree of restraint than formerly in addressing the Secretary of State. And if he cannot rely upon being met by so much consideration as will ensure to him the opportunity of offering explanations before his measures are condemned, he may justly despair of being able to render justice to the office he is entrusted with.

I regret that it should have been made necessary for me to trouble you with this long detail of transactions which had long ceased to occupy my attention, and respecting which many circumstances have possibly escaped my recollection.

I have, &c.,

P. MAITLAND.

P. S.—The Attorney-General of Upper Canada being in London, I requested him to give any information he could supply respecting the lease granted to Messrs. Clarke and Street, a matter alluded to in the Report of the Select Committee. My recollection of the circumstance accords with the statement made by Mr. Boulton, and I request 20 that his letter may be considered as annexed to this communication. P. M.

A Select Committee of the House of Assembly was appointed in Upper Canada in the session 1821 or 1822, to revise the Militia laws of the Province, who were desirous of obtaining information on some points from the Adjutant-General of Militia. This officer was consequently requested to attend the Committee without any previous application for leave to the Lieut.-Governor. This, upon a suggestion to the Chairman of the Committee (the late Colonel Nichol of the Provincial Militia) was ascertained to be irregular, and consequently a formal request for leave to this officer to attend was transmitted to the Lieutenant-Governor, and of course promptly complied with, and this has been the constant practice in cases of this description 30 (except that of Colonels Givins and Coffin) so far as my parliamentary experience extends.

(Signed) C. A. HAGERMAN,

*M.P.P. for Kingston, U.C.*

21 June, 1833.

LETTER FROM H. J. BOULTON, ESQUIRE, TO LIEUTENANT-GENERAL SIR P. MAITLAND, K.C.B.

MORLEY'S HOTEL, LONDON, 24th June, 1833.

SIR,—In reply to your enquiry respecting my recollection of the circumstances under which Messrs. Clarke and Street obtained a lease of part of the Military Reserve near the Falls of Niagara in 1827, I beg to acquaint you that 40 the instrument under which these gentlemen hold these premises in question under



a lease which was drawn by me as Solicitor-General of Upper Canada. Previous to their obtaining the lease, Messrs. Clarke and Street had become lessees of the King's Ferry across the Niagara River, just below the Falls, and opposite to the property of a Mr. Forsyth, an innkeeper, who had himself at one time been desirous of obtaining a lease of the Ferry. When they became lessees, this man, Forsyth, obstructed their enjoyment of it in every possible way, setting up, at the same place, a Ferry in opposition to theirs, and as was believed from a variety of circumstances, causing several of their boats to be destroyed. For these injuries, Clarke and Street brought action at law against Forsyth, in which I was their counsel, and Mr. Rolph, (chairman subsequently of the Committee of the Assembly who reported upon a petition presented to that body by Forsyth, complaining of the Government for pretended injuries he had sustained through their interference), was counsel for Forsyth.

In these actions the lessees clearly established their right, and two several juries at successive courts, gave considerable damages against Forsyth for his disturbance of their right of ferry. The Crown also filed an information of intrusion against Forsyth for entering upon and assuming the property in the ground reserved for military purposes, and although he used all the means in his power to cause it to be believed that he was an oppressed man, and that the military were set in array against him, when in truth only two or three soldiers 20 accidentally passing from one post to another, in their fatigue dresses, were employed as common labourers to remove obstructions he had caused ; the jury after remaining out several hours, returned a unanimous verdict for the Crown, thereby negativing his right to the ground, and fully establishing that of the Crown to the satisfaction of every respectable man in the neighborhood. Under these circumstances, and for the purpose of preventing any persons from erecting any ferry-house, or keeping ferry-boats on the shore, where Clarke and Street had the right of ferry, for which they paid a large rent, and also to keep the ground open for the free access of the public which Forsyth had interdicted. Clarke and Street obtained an order for a license of occupation of that part of the reserve near the ferry up and down the river. 30 The object of granting this license was to protect the lessees in the proper enjoyment of their right of ferry, and to keep the shore open and free of access to the public, who had been shut out by Forsyth unless they passed through his inn, which tended to create a monopoly for his house, and was felt as a serious nuisance by the public. Mr. Clarke stated his reasons, for wishing the lease, to me, and I prepared a lease, under the Great Seal, to him and his partner, to hold strictly during pleasure, at a pepper corn rent. This instrument gave him a legal title to the possession ; at the same time, from the uncertain period at which they could hold it, the Crown and public were fully protected in the enjoyment of the easement it was intended the latter should possess, that of free ingress, egress, and regress, to the Falls, as the 40 Crown, from the terms of the lease, retained the power of putting an end to the tenure, should the confidence be abused which was placed in the lessees. They

See the Lease at page 195 and note  
in Margin -

have, to my knowledge, acted hitherto in accordance with the expectations of the Government, and I am certain the grant to them has been productive of evil to no one, and was never intended to prejudice the rights even of Forsyth; and if he had not shown the obdurate disposition which he so frequently and violently manifested, of obstructing the free use of the King's Ferry, and would he have permitted the ground to remain open, as it formerly had been, and unenclosed, I do not think that the grant of Clarke and Street would ever have been thought of, either by themselves or by anybody else. It was purely a measure of defence against this man's repeated aggressions.

10

I have, &amp;c.,

(Signed) H. J. BOULTON.

## ADDRESS OF HOUSE OF ASSEMBLY TO THE LIEUTENANT-GOVERNOR.

To His Excellency SIR JOHN COLBORNE, Knight Commander of the Most Honourable Military Order of the Bath, Lieutenant-Governor of the Province of Upper Canada, Major-General Commanding His Majesty's Forces therein, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY:

We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly request that your Excellency would be pleased to transmit to England, and favourably to recommend to His Majesty's Government the report herewith presented to your Excellency of a Select Committee of this House appointed to enquire into the claim preferred in the present and former Sessions of the Legislature, by Mr. William Forsyth, of Bertie, yeoman, late proprietor of the Niagara Falls estate, to compensation for injury and damage done him, under the authority and by the command of the officer lately commanding the forces in this province. We are of opinion that Mr. Forsyth has fully proved that he sustained damage, and that his case is an aggravated one, deserving the early and favourable consideration of His Majesty's Government.

Commons House of Assembly,

30 2nd day of April, 1835.

MARSHALL S. BIDWELL, *Speaker.*

## ANSWER OF LIEUTENANT-GOVERNOR.

GENTLEMEN,—I will transmit this address and report to the Secretary of State for the Colonies.

The opinion of the Law Officers of the Crown that the instruction on the Military Reserve near the Falls was an iniquitous proceeding, and that the intruders should be again prosecuted, will prevent my complying with the request of the House, in respect to a favourable recommendation to His Majesty's Government of the case of Forsyth.

*See ante  
f. 228*

The intruders in 1835 were Clark & Street

The opinion of the Attorney-General is expressed in this extract of his report on the case :

*Extract from the Report of the Attorney-General on the case to which the Petition of Wm. Forsyth has reference, dated 4th February, 1835.*

" So far from entertaining any doubt as to the right of the Crown to the reserve " in question, I am convinced that the claim now set up by Clarke and Street is an " unrighteous one, and unless it shall appear to the Executive Government, for any " reason not at present apparent, to be inexpedient, it is my intention to proceed " against those gentlemen by the information of intrusion, which I was, for the  
10 " reason I have just stated, obliged to withdraw."

### No. 78.

#### MINUTES OF COUNCIL RESPECTING LICENSE OF OCCUPATION IN FAVOUR OF CLARKE AND STREET.

(This is Minute in Council of 6th August, 1835, and is included in Exhibit No. 75 *ante*.)

### No. 79.

REQUEST FROM CAPTAIN BONNYCASTLE TO BE FURNISHED WITH SERIES OF PLANS OF MILITARY RESERVES IN THE PROVINCE OF UPPER CANADA, AND COMPLIANCE OF SURVEYOR-GENERAL  
20 THEREWITH.

ROYAL ENGINEER OFFICE,

(Rec'd 7th April, 1836.)

TORONTO, U.C., 6th April, 1836.

SIR,—I have to request that a series of plans of the Military Reserves in this Province, prepared for the Ordnance by the Surveyor-General, and now in his office, may be handed over to me.

Also, that I may be allowed certified copies of the following plans from that Department, viz., Mr. Chewett's plan of the Reserve at Niagara Falls, on which the pleadings in the late trials against me were made, as well as Mr. Burwell's and Mr. Keating's surveys of the Reserve there, and plans of the chain of Military Reserve  
30 from the Falls to Niagara (Newark), and to Fort Erie, and also of the Military Reserves on the coast of the St. Clair, in which some fisheries have recently been leased by the Commissioner of Crown Lands.

I have the honour to be, Sir,

Your most obedient humble servant,

R. H. BONNYCASTLE,

Com'g. Royal Eng., Western Dist., U.C..

J. JOSEPH, Esq., Secretary, &c., &c.



Gov't. House, 11th April, 1836.

The acting Surveyor-General will be pleased to furnish Capt. Bonnycastle with the plans, &c., required by him, as stated in the within letter.

By command of the Lieutenant-Governor.

J. JOSEPH.

47, G. O., 12th April, 1836.

Plans required furnished to Captain Bonnycastle by letter, 29th April, 1836. See letter book 30, pa. 47.

SURVEYOR-GENERAL'S OFFICE,

10

TORONTO, 29th April, 1836.

CAPT. BONNYCASTLE, Com'g. Royal Engineer, Western District.

SIR,—In obedience to the commands of His Excellency the Lieutenant-Governor, of the 11th inst., I have the honour herewith to transmit to you a series of Plans, as per list annexed, showing certain Military Reserves in this Province; and certified copies of the following plans, viz., Mr. Chewett's Plan of the Reserve at Niagara Falls, Messrs. Burwell's, Keating's and Hawkins' Survey of the said Reserve, Mr. Keating's plan of the same, a plan of the chain of reserve from Fort Erie to Queenston, also a Plan of the Reserve at Point Edward, at the mouth of the St. Clair River, which I trust will meet your wishes.

20

I have the honour, &c.,

J. RADENHURST.

PLANS OF CERTAIN MILITARY RESERVES IN UPPER CANADA.

1. Burlington Heights.
2. Mouth of Grand River, Lake Erie.
3. Queenston.
4. N.-W. corner of Malden and in western part of cession from Indians in 1800.
5. Penetanguishene
6. Entrance of Chippewa Creek.
7. Adjoining Town of Chatham.

30

No. 80.

FURTHER REQUEST FROM CAPTAIN BONNYCASTLE TO BE FURNISHED WITH ATTESTED COPIES OF PLANS OF CERTAIN MILITARY RESERVES, AND COMPLIANCE THEREWITH.

*Military Reserves.*

ROYAL ENGINEER OFFICE,

TORONTO, 22nd Dec., 1836.

SIR,—I have the honour to request that the Surveyor-General may be authorized to furnish this Department with two attested copies of each of the undermentioned



plans of the Military Reserves, one copy as a duplicate of those forwarded to the Secretary of State, the other as a public document for the use of the Ordnance.

No. 4. Plan of the Military Reserve from Fort Erie to Queenston, dated 26th April, 1836.

5. " Point Edward, Sarnia, 27th April, 1836.

6. " Burlington Heights, 23rd April, 1835.

7. " Mouth of Grand River, 26th April, 1835.

8. Queenston, 16th April, 1836.

9. Amherstburg, 16th April, 1836.

10. Penetanguishene, 16th April, 1835.

11. Entrance to Chippewa Creek, 16th April, 1835.

12. Military Reserve, Chatham, 16th April, 1835.

14. Military Reserve, Fort Erie, 10th May, 1836.

I have the honour to be, Sir,

Your most obedient humble servant,

J. JOSEPH, Esq.,

Secretary, &c., &c.

R. H. BONNYCASTLE,

*Com'g. Ryl. Eng., West'n Dist., U.C.*

(*Endorsements*).

Referred to the Surveyor-General to be acted upon as within requested.

20

By Command.

J. JOSEPH.

Entered in Orders and Letters from Gov. Office, page 209.

Plans furnished by letter, 19th January, 1837.

SURVEYOR-GENERAL'S OFFICE,

TORONTO, 9th January, 1837.

R. H. BONNYCASTLE, Esq.,

Capt. R. E.

SIR.—Pursuant to the order of His Excellency the Lieutenant-Governor, I now have the honour to transmit you two sets of plans of the Military Reserves, as 30 requested in your communication to Mr. Secretary Joseph, dated 22nd Dec. last, viz.:—

Plan of Military Reserve from Fort Erie to Queenston.

" Point Edward, Sarnia.

" Burlington Heights.

" Mouth of Grand River.

" Queenston.

" Amherstburg.

" Penetanguishene.



Plan of Entrance to Chippewa Creek.

- " Military Reserve, Chatham.
- " Military Reserve, Fort Erie.

I have the honour to be,  
J. MACAULAY, S.G.

ROYAL ENGINEER OFFICE,  
TORONTO, U.C., 20th January, 1837.

HON. JOHN MACAULAY,  
Sur.-General.

10 SIR,—I have the honour to acknowledge the receipt of the undermentioned  
duplicate plans of Military Reserves, which are dated 19<sup>th</sup> January, 1837.

Reserve from Fort Erie to Queenston.

19<sup>n</sup>

- " Point Edward, Sarnia.
- " Burlington Heights.
- " Mouth of Grand River.
- " Queenston.
- " Amherstburg.
- " Penetanguishene.
- " Entrance of Chippewa Creek.

20 " Chatham.  
" Fort Erie.

I have the honour, &c.,

R. H. BONNYCASTLE,

*Com'g. Royal Engineer,  
Western District, U.C.*

## No. 81.

PETITION OF WILLIAM FORSYTH FOR LICENSE OF OCCUPATION OF  
LAND FRONTING ON HIS LOT IN THE TOWNSHIP OF BERTIE, AND  
MINUTE OF COUNCIL THEREON.

30 To HIS EXCELLENCY SIR FRANCIS BOND HEAD, LIEUTENANT-GOVERNOR OF THE PROVINCE  
OF UPPER CANADA, &c., &c., &c.

The Petition of William Forsyth, the Elder, of the Township of Bertie,—

HUMBLY SHEWETH.—

That your petitioner, in times past, having experienced serious difficulties and losses, in not having a license of occupation, for the free enjoyment of the front of the lands on the Niagara River; Your petitioner therefore prays that your Excellency



may be pleased to grant him the license of occupation for the lands on the Niagara, fronting the premises whereon he now resides, being lot number seven in the first concession and number eight in ditto. And your petitioner as in duty bound will ever pray.

Bertie, 15th October, 1836.

WM. FORSYTH.

(*Endorsement on foregoing*).

In Council, 1st December, 1836.

The Council cannot recommend the alienation of any part of the chain of reserve 10 along the Niagara River which was originally made for public purposes.

R. B. SULLIVAN,

F. B. H.

P. C.

## No. 82.

LETTER FROM LORD GLENELG TO MAJOR-GENERAL ARTHUR RESPECTING MEMORIAL OF MR. STANTON FOR FREE GRANT OF LAND WITH THE MILITARY RESERVE AT FORT ERIE.

DOWNING STREET, 17th May, 1838.

SIR,—On his arrival in this country Sir Francis Head placed in my hands a memorial from Mr. Robert Stanton of Toronto, praying for a grant of 45 acres of land 20 in the vicinity of Fort Erie, originally reserved for military purposes. Sir F. Head however was unable to afford me any information on the subject of this memorial. I have, therefore, to request that you will call on Mr. Stanton to supply you with a copy of it, and after submitting it for the consideration of the Executive Council, report to me your opinion as to the decision to be adopted in the matter.

Without attempting to prejudice Mr. Stanton's case, I must express my fear that there will be some difficulty in acceding to his application. Lands reserved for ~~military purposes, which are subsequently found unnecessary~~, revert into the general mass of the Crown Estate, to be disposed of in the same manner as any other Crown lands. But by the Act passed by the Legislature of Upper Canada during the session 30 of 1837, and assented to by the Crown, the power of making free grants of land is with few exceptions taken away from the Crown. Whether the lands applied for by Mr. Stanton are in this position or not, I am unable to judge, but you will of course advert to the circumstances in preparing your report on his application.

I have the honour to be, Sir,

Your most obedient humble servant,

GLENELG.

Major-General Sir GEORGE ARTHUR.



**No. 83.**

## ORDER IN COUNCIL RESPECTING THE MILITARY RESERVE AT LONDON, CANADA.

IN COUNCIL, 24th September, 1840.

The Council respectfully recommend that the piece of ground designated on the annexed Plan, within the red line, be appropriated for Military Purposes, including the streets, and placed under the charge of the Officers of Her Majesty's Ordnance.

The Council are not aware that the Ordnance has in this Province any legal capacity to hold land, but the appropriation in the present form by Order in Council, will, it is apprehended, have all the effect desired.

The Government has no authority to grant the right to close streets against the public. So far as the right of the Crown is concerned the appropriation of the ground and the license to close the streets now given, will be sufficient authority.

But the legal question which may be raised by individuals claiming to have the streets remain open, must remain until it shall be raised for litigation. The Government cannot settle the point by any proceeding on its part.

Upon the report of Lieutenant-Colonel Ward, the Council further recommend that the triangular lot "D" on Mark Lane, be included in the present appropriation.

As regards Lots one and five on Waterloo street, they being private property, the Council cannot interfere further than by a reference to the Provincial Statute, 3 Victoria, Cap. XVI, which authorizes possession to be taken even against the will of the owner, on paying compensation to be assessed by a jury, in case the parties should not agree to a disposition of the same to the satisfaction of Her Majesty's Officers.

The Council further recommend that the Surveyor-General be instructed to mark other lands as reserved for school purposes, in lieu of the school lots now appropriated for military purposes.

*(Endorsement.)*

The result should be communicated by the Provincial Secretary to the Respective Officers in reply to their letter.

30

R. B. SULLIVAN.

28th September, 1840.



No. 84.

ORDER IN COUNCIL ON PETITION OF JAMES WINDEAT FOR LICENSE  
OF OCCUPATION OF LANDS ON NIAGARA RIVER IN THE TOWNSHIP OF BERTIE.

## GOVERNMENT HOUSE,

KINGSTON, Friday 25th November, 1842.

## PRESENT:

His Excellency the Right Honourable Sir Charles Bagot, G.C.B., Governor General of British North America, &c., &c., &c.

- 10 The Honourable Mr. Sullivan,  
" Mr. Harrison,  
" Mr. Hincks.

The Honourable Mr. Lafontaine,  
" Mr. Aylwin,

His Excellency laid before the board several reports of committees of Council on land matters which being read were approved and ordered to be entered as follows:—

To His Excellency the Right Honourable Sir Charles Bagot, G.C.B., Governor-General of British North America, &c., &c., &c.

Report of a committee of the Executive Council. Present: The Honourable Mr. Sullivan in the Chair, Mr. Daly, Mr. Harrison, Mr. Hincks, Mr. Lafontaine and Mr. Aylwin on several land applications.

- 20 May it please your Excellency.  
On the petition of James Windeat for a license of occupation of the reservation  
on the left bank of the Niagara River in front of lot number three in the 1st con-  
cession of the Township of Bertie,  
The Committee of Council do not recommend permission to occupy any part of  
the Government Reserve on the bank of the Niagara River.

Approved in Council, 25th November, 1842.

(Signed), C. B.

No. 85.

REPORTS OF CAPTAIN BONNYCASTLE AS TO LICENSE OF OCCUPA-  
TION TO CLARKE & STREET, AND APPLICATION OF MR. JAMES  
BUCHANAN REGARDING RESERVED LANDS AT NIAGARA FALLS,  
WITH CORRESPONDENCE AND ACTION OF THE GOVERNOR-  
GENERAL THEREON.

## ROYAL ENGINEER OFFICE.

KINGSTON, C. W., 7th October, 1844.

GENTLEMEN.—In returning herewith, having retained a copy, the letter of Mr. Street, dated Niagara Falls, Sept. 30th, 1844, I have the honour to

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represent that the subject is one of very great importance to the Ordnance and to the public, upon which I am engaged in collecting documentary matter which it will take some time to arrange and accompany by plans, &c.

Messrs. Clarke & Street many years ago, obtained a license of occupation during pleasure of all the Military Reserve on the bank of the Niagara River from part of the town of Chippewa to Stamford.

A person, an alien of the name of Forsyth, became possessed of property known as the Pavilion Hotel and grounds adjacent to part of this Reserve at the Falls of Niagara, and enclosed some of the Reserve itself, thereby monopolizing the right of 10 the public to visit the Falls unrestrictedly.

Messrs. Clarke & Street, during the government of Sir Peregrine Maitland, represented this as a great grievance and infringement upon their license of occupation. Sir Peregrine directed Captain Phillpotts, R. E., to proceed with a military working party and open the reserve to the public, for which he was prosecuted, and, Messrs. Clarke & Street using all their influence in the District against Forsyth, a verdict was obtained in favour of the Crown, and the military reserve was opened.

During the Government of His Excellency Sir John Colborne, now Lord Seaton, Messrs. Clarke & Street retained their license of occupation, but acted in conjunction with a company called the Company of the City of the Falls, of which they 20 were the ostensible heads and directors.

They commenced erecting a stone building for baths, and also observatories and waterworks, and forming paths and roads, on the Military Reserve. The attention of the Lieutenant-Governor was immediately aroused to the fact that these gentlemen were taking permanent possession of ground only allowed to be occupied during pleasure, and that the very circumstances which had put the Government to so much expense and trouble respecting Forsyth, were again about to occur on the part of persons who had been the means of ejecting him, whilst Forsyth now claimed an enormous sum for recompense, and made through a leading agitator of that day, a grievous case which was taken even before the House of Commons and embarrassed 30 the Local Government for years.

I happened to be then in Canada, and stationed at Toronto, in charge of the Western District.

Sir John Colborne directed me to repair to the Falls and take every measure to prevent the encroachment of Messrs. Clarke & Street and the Company. I did everything in my power without avail, and for "trespassing on the Military Reserve" an action was brought against me by them.

The influence of these gentlemen was then unbounded in the District of Niagara, and although the Attorney-General, now the Vice-Chancellor, was employed



to defend me, he having only just arrived from England, a verdict was given against me, as the agent of the Crown, with £500 damages.

Shortly afterwards Sir John was recalled, and during Sir Francis Head's Government the political troubles prevented further action, but as the new verdict, setting aside that given in Forsyth's case, was capable of revision in a Superior Court it was intended to put the case into Chancery to recover the rights of the Crown and to protect the public.

A very large revenue has been derived by the late Messrs. Clarke & Street for the use of that part of the now Ordnance Land they continued to occupy, and some of 10 the Company of the City of the Falls have even gone so far as to sell a portion of the Reserve which was not interfered with by the verdict, the company after that verdict portioning out the ground amongst themselves.

Any improvements which Messrs. Clarke & Street may have made, have been paid for over and over again by the rents derived from the Stairs, the Ferry and the Burning Springs, but the City of the Falls speculation, baths and waterworks has been a total failure. The beautifully wooded bank on the Reserve opposite Goat Island having got into private hands has been nearly destroyed, and several encroachments on the Reserve itself have taken place. £300 has been paid by the Ferryman, and even £400 per annum, £250 and more by the person Barnett, 20 occupying the Stairs, and a very large sum by the person showing the Burning Spring, to the late Mr. Street; whilst instead of improving, as he was bound to do, the road on the edge of the precipice from above the Ferry to the Table Rock, it is almost impassable for females much of the way, nothing having been done to it for many years; and serious loss of life, both to human beings and cattle, have occurred for want of any fence, wall, or guard, along the whole road.

*See her  
Leave  
1821*  
*b. 195 195*  
*J*

It has in fact been a mere money-making speculation, and whilst the documents bearing on the case are in preparation showing the importance of the Ordnance taking this great natural object under its protection, both in a Public and Military point of view, I should respectfully recommend that the attention of the Head 30 Quarter Board and Mr. Commissioner Elliott be drawn to this statement, and that no renewal of the privileges formerly granted by the local Government in so handsome a manner, and so ill requited, to the late Messrs. Clarke and Street, be given to the heir or representative of the latter in whose hands the property of both, adjacent to the Falls, has fallen.

I have the honour to be, Gentlemen,

Your most obedient humble servant,

The Respective Officers

of His Majesty's Ordnance, Kingston.

R. H. BONNYCASTLE,

Lt. Col. Royal Engineer, C.W.

naval ordnance

## ROYAL ENGINEER OFFICE,

KINGSTON, C.W., 9th April, 1845.

SIR,—In reply to your letter of the 1st and 3rd instant, I have the honour to acquaint you again that the whole subject of Ordnance Lands at Niagara Falls is under consideration, and that it is not in my power to grant permission to any person to occupy any part of them, or to permit any alterations or encroachments, for any purpose whatever.

I have, etc.,

J. BUCHANAN, Esq.,  
10 Falls of Niagara.

R. H. BONNYCASTLE.

## ROYAL ENGINEER OFFICE,

KINGSTON, C.W., 2nd March, 1846.

SIR,—Your letter of the 5th ultimo having been submitted to the Ordnance authorities at Head Quarters, I have the honour to inform you that the indulgence therein solicited cannot be granted.

I have, etc.,

J. BUCHANAN, Esq.,  
Falls of Niagara.

R. H. BONNYCASTLE.

KINGSTON, CANADA WEST, 5th June, 1846.

20 GENTLEMEN,—May I request that you will, without delay, forward to the Head Quarter Board this letter.

It is not with any surprise I have perused a memorial dated Falls of Niagara, Canada, 28th April, 1846, from Mr. J. Buchanan to His Excellency the Governor-General and Commander of the Forces in Canada respecting my official conduct as an officer of the Ordnance.

I do not deem it, therefore, at all necessary to comment upon or notice the singular character, as a military officer, which Mr. Buchanan has described me as possessing and actuated by, but shall only observe that he has been and still is, I believe, one of the most active members of the association called "The Company of 30 the City of the Falls," a speculation which from its very nature and the mode in which it was commenced, defeated itself.

So far from the local Government, or the military authorities, or any individual officer, including myself, having been the means of involving any member, including Mr. Buchanan, in expense or litigation, I beg to observe that the local Government, on the contrary, was involved in expensive lawsuits by the very party now complaining. Mr. Buchanan is one of the few survivors of the company.

To prove this without entering at length upon a matter so notorious in Upper or Western Canada, I beg to call attention to my letter of 7th October, 1844, here-with, detailing succinctly the proceedings.



The letter of 5th February, 1846, was referred to Head Quarters, with a recommendation dated 12th February, 1846, that for the reasons assigned Mr. Buchanan should not be allowed any control over the reserve; my reply to Mr. Buchanan of 2nd March, 1846, is inclosed, and as Mr. Street is in fact the recognized possessor of the license of occupation of that ground, I cannot perceive by what process Mr. Buchanan can desire to deprive that gentleman and the Government of its use.

Mr. Buchanan without any leave from the Ordnance (for that was refused him as will be seen by my letter of the 9th April, 1845, a copy of which is herewith) cut down the shrubs on and near the Table Rock, built a tavern, which is partly, or 10 rather according to the opinion of the law officers, wholly on the Ordnance land, and now appears to be anxious only to secure the reservation to himself, forgetting perhaps that a very large revenue is derivable from it and that the intrusion of improper characters on and near the Table Rock may as well be caused by the erection of a tavern close to it as by any other means.

For myself as a "British Officer" to whom Mr. Buchanan in that capacity is pleased to attribute he "is sorry to say" from "arbitrary bearing" that the vicinity of the Falls is a reproach, and that he and others are great sufferers thereby, I have only to point out the course pursued by that gentleman and others, from the founding of the *pseudo* City of the Falls, towards the local Government to the present 20 moment, and for the accuracy of my statement respecting it, I refer to His Excellency Lord Seaton, Lord High Commissioner of the Ionian Islands, to His Excellency Sir Peregrine Maitland, Governor of the Cape of Good Hope, to His Honour the Vice-Chancellor of Canada West, Mr. Jameson, who was employed as Attorney-General upon the last trial, to the Honourable Mr. Draper who was cognizant as Counsel against the Crown, of the whole proceedings, and, I might add, to all the respectable inhabitants of the District of Niagara.

Mr. Thomas C. Street, the representative of Messrs Clarke and Street has acted in a very different manner from Mr. Buchanan, although he has fifty times the interest at stake, as will be seen by his correspondence, which is still incomplete 30 owing to the difficulty of obtaining a copy or the original of the license by which he holds the reserve west of the Table Rock, and also because I have been waiting for the officer of Engineers appointed to survey the Ordnance land vested in that department by the late Act.

In conclusion I beg to state that I have been uniformly, as an officer and a gentleman should be, civil to Mr. Buchanan, who has invited me to pass my time at his house when at Niagara, has called on me here, and has in short neglected nothing to carry his point, and that I have acted throughout with that proper sense, I trust, of my duty on a matter in which the public, and, indeed, the travellers of all nations, are

Important waiting for the officer of  
Engineers appointed to survey the  
advance land

so interested, without reference to him, with whom I have no other than an official acquaintance, or anybody else.

I have the honour to be, Gentlemen,

Your most obedient servant,

R. BONNYCASTLE.

To the Respective Officers of H. M. Ordnance, Kingston.

OFFICE OF ORDNANCE,

MONTREAL, 15th June, 1846.

SIR.—In returning your reference of the 1st ult., upon the memorial of Mr Buchanan, applying for a license of occupation of the ground adjacent to the Falls of Niagara, and complaining of the conduct of Lt.-Col. Sir Richard Bonnycastle, Royal Engineers ;

We have the honour to submit for the information of the Commander of the Forces a copy of that officer's report, dated 5th instant, with its enclosures, which afford a full explanation of the circumstances referred to in the memorial, and from which His Excellency will perceive that the refusal to accede to Mr. Buchanan's applications for the land near the Falls, which we considered liable to serious objection, emanated from this Board, and not from the Commanding Royal Engineer in Canada West.

20

We have the honour to be, Sir,

Your most obedient, humble servants,

F. CAMPBELL,

*Com. Royal Artillery.*

W. HOLLOWAY,

*Col. Com. Royal Engineer.*

J. S. ELLIOTT,

*O. Storekeeper.*

W. H. BLENKARNE,

*D.O.S.*

The Military Secretary, &c., &c., &c.

MILITARY SECRETARY'S OFFICE,

MONTREAL, 20th June, 1846.

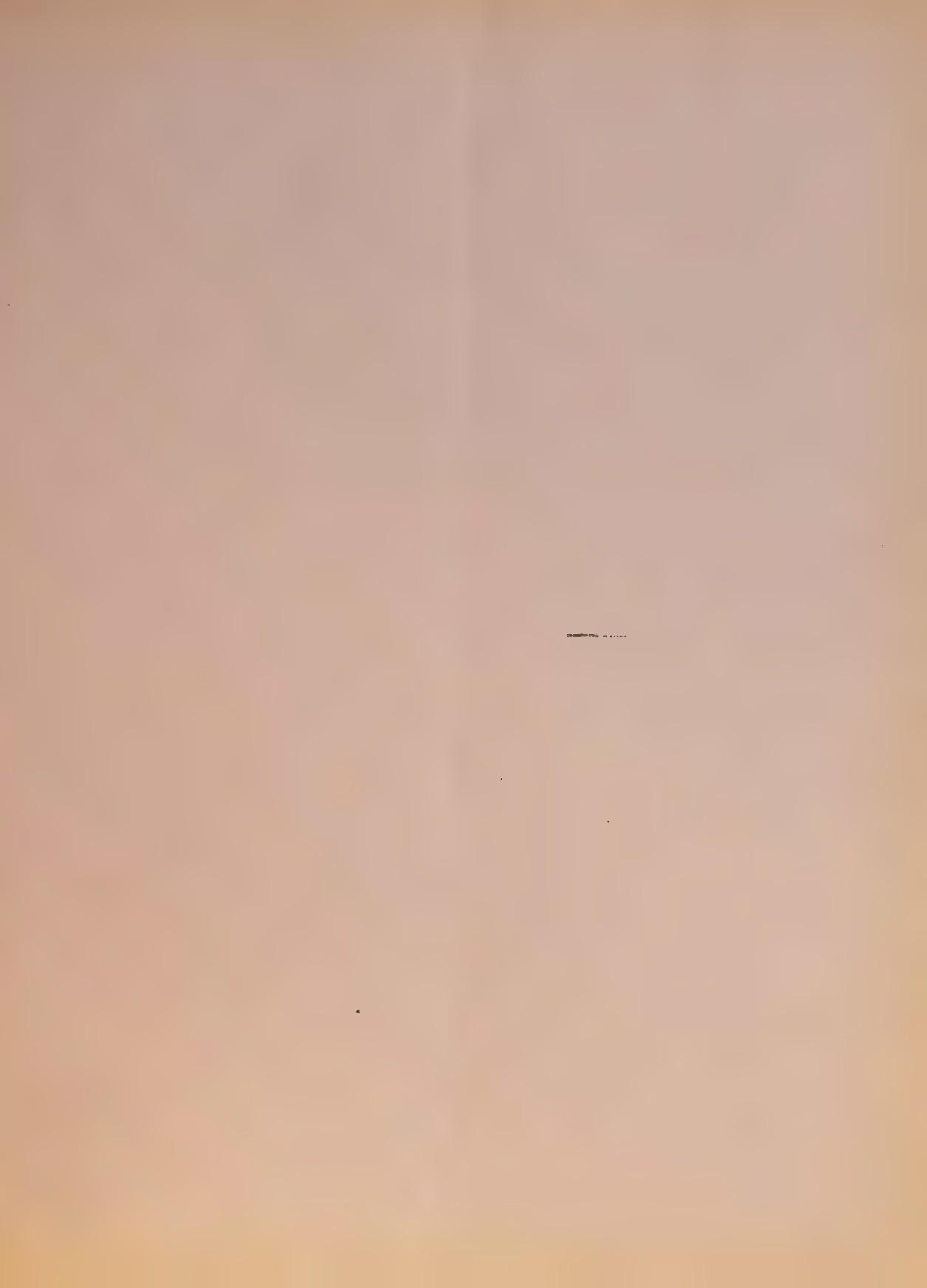
SIR.—The memorial of Mr. Buchanan, dated Falls of Niagara, 28th April, 1846, 30 complaining of certain proceedings on the part of Lt.-Col. Sir Richard Bonnycastle, Royal Engineer, having been referred to the respective Officers of the Ordnance, agreeably to the desire of His Excellency the Governor-General, as conveyed by your minute upon the document in question ; I have now the honour to return the same and to transmit the report which has been received from the Ordnance authorities upon the subject of Mr. Buchanan's complaint.

I have the honour to be, Sir,

Your most obedient servant,

The Civil Secretary, Montreal.

GEO. TALBOT, *M.S.*



4477.

MILITARY SECRETARY, 20th June, 1846.

Enclosing report from Ordnance Department on the memorial of Mr. James Buchanan, complaining of the conduct of Sir R. Bonnycastle with regard to the military reserve at the Falls of Niagara.

For your Lordship's orders :

Sir Richard Bonnycastle's explanation is especially satisfactory, and the respective Officers of Ordnance should continue to preserve the reserve at Niagara from encroachment or trespass.

- 10 Mr. Buchanan's memorial to be civilly answered, and Mr. B. to be informed that after due enquiry the Governor-General cannot interfere with the respective Officers of Ordnance in their management and control of these reserves, which appears to be in every respect exercised with proper discretion and to the advantage of Her Majesty's Service.

(Signed) C.

This communication should be made to Captain Talbot, there not being at the present any Civil Secretary.

(Signed) C.

[MEMO.—*The remarks over the signature C. is in the handwriting of Earl Cathcart*  
OTTAWA, 5th November, 1892.]

FALLS OF NIAGARA, CANADA, 10th July, 1846.

- 20 SIR,—Having been absent from home, I now have the honour to acknowledge your letter of the 25th June, addressed to me by command of His Excellency the Governor-General, informing me that my memorial of the 25th April last had been referred to the Officers of the Ordnance for investigation as to the circumstances alleged by me against Lieut.-Colonel Sir Richard Bonnycastle, Royal Engineer, and that after due enquiry His Lordship commands to acquaint me the explanation given by Sir Richard Bonnycastle is satisfactory. In replying thereto, pardon my saying that, had not His Lordship in a truly kind manner, desired me to submit my complaint to His Excellency, and that in justice I anticipated an open investigation of the facts I set forth (and which are not denied), I should not have availed myself of 30 His Lordship's generous and offered interposition as any reference to the accused party, from the system pursued, no other result could have arisen.

From His Lordship's determination of character I thought otherwise, and I hoped I should have been presented the course pointed out to restrain the oppression and unjust course under which I, with other loyal subjects of Her Majesty, have been so long suffering. Appealing to the Imperial Parliament was suggested as the only hope of repressing the military agressions, losses and expenses I and others have been subjected to by Sir Richard Bonnycastle's past course, as well as continuing to urge for several years on the law officers of the Crown further proceedings, after two trials given in our favour, while we, who suffer, have no redress for our damages and



costs, as the Crown is exempted from such, while it is alleged such perseverance is alone to justify the expense to which Sir Richard has subjected the Crown by the trials already had, while I have entreated and offered any friendly adjustment with the relinquishment of any of my ground deemed necessary for public purposes, and as a further evidence of my desire of adjustment, most happy should I be to refer the subject to any gentleman your Lordship would appoint, and thereby save me from further measures as to redress.

I beg to express my deep regret His Excellency has not interposed to render justice to me and the other sufferers, so that resorting to other means might be 10 avoided. I deeply lament an officer of Sir Richard Bonnycastle's rank should have persevered in a course so long, so prejudicial to the private interests of loyal subjects and injurious to the improvement of this part of the Province, and shall hail with pleasure any adjustment of my grievances by the Governor-General, to whom I look, as the guardian not only of the rights of the Crown but the protection of Her Majesty's subjects.

I have the honour to be, sir,

Your most obedient servant,

GEO. TALBOT, Esq., Military Secretary, &c., &c., &c.

J. BUCHANAN.

FALLS OF NIAGARA, 29th December, 1848.

20 MY LORD,—In consequence of the disgraceful scenes, occurring to the annoyance of visitors, resorting to the falls, particularly at the Table Rock, by the grog stands, and runners urging the visitors, to employ them to accompany them under the great Fall, which leads these worthless fellows to abuse each other in terms disgraceful, and which only of late has reached a highth not to be borne. The Table Rock fronts on my property, which I consider one chain on the top of the bank, and offered freely any other portion of my lands if required by the Ordnance, I havé the honor to state to your Excellency that I proposed to the Board of General Officers, that if they would place the care of the Table Rock, so in front of my land, that I would at my own expense enclose it, erect seats for visitors, and keep it clear of these grog stands, 30 and annoyance of visitors, and that no charge should ever be made for such my expenditure and care; being actuated by an earnest desire, and as a proprietor, to remove the shameful state of the most interesting place at the Falls.

Being anxious to make the improvements so as to be effected by next season, I addressed a letter to the Board of Officers at Montreal They have the honor to reply, under the date of the 18th instant, in the following terms: " We beg to acquaint you, that the subject having been fully considered, as to the state of the reservation at the Falls, by the Governor-General, His Excellency has been pleased to approve of the arrangement proposed for the settlement of the land, and that the same has been submitted to the home authorities, pending whose decision upon the question all 40 proceedings in regard to the future management is suspended."



I beg to add, that I have heard the District Council have interfered, but they do not come as far as Table Rock. May I therefore, as an old servant of the Crown, deeply interested in the improvement and state of accommodation for visitors to the Falls, have the privilege of keeping Table Rock in order, and free from the disgraceful scenes occurring there, particularly on Sundays; being part of my lands, while no charge shall be permitted to any visitors, your Lordship's interposition will prove satisfactory, when you see the embellishments I shall place at the Table Rock.

I have the honor to remain,

Your Lordship's humble servant,

10

His Excellency the Governor-General.

J. BUCHANAN.

*Copy of draft of Reply to Mr. B.*

9th January, 1849.

JAMES BUCHANAN, Esq.,

SIR,—I am directed by the Governor-General to acknowledge the receipt of your letter of the 29th ultimo in which you complain of the annoyance, by certain persons, of visitors resorting to the Falls of Niagara, and requesting His Excellency's interposition in your favor for the privilege of keeping Table Rock in order.

In reply I am to inform you, that pending the decision of the question by the 20 Home Government, to whom reference has been made, it is not in His Excellency's power to interfere in this matter.

## No. 86.

REPORTS OF THE ORDNANCE AUTHORITIES UPON COMPLAINTS OF  
MR. BARNETT, AND WITH REFERENCE TO CERTAIN IRREGU-  
LARITIES AT THE FALLS OF NIAGARA, WITH DESPATCH FROM  
EARL GREY.

OFFICE OF ORDNANCE,

MONTREAL, 28th Nov., 1848.

SIR,—In the early part of this year our attention was called, as well by publication in the local prints as by representations from individuals resident on the spot, (particularly Mr. Barnett, to whom, in the hope of placing part of the reserve at the Falls of Niagara under some control, permission had been granted by us on payment of £5 currency per annum to rent the spiral stairs near the Table Rock), to the continued scenes of riot and violence enacted on the land belonging to the Department, by rival parties assuming to themselves the conducting of visitors under the sheet of

Barnett

water and the keeping of houses or rooms of public entertainment, productive not only of disgraceful violence between each other, but the utmost inconvenience to the public, and which arrived at such a height as to produce a communication from Mr. Barnett that he was unable to protect the property let to him or to carry on his business. We therefore directed Captain Bent, of the Royal Engineers, and Deputy Ordnance Storekeeper at Toronto, to proceed to the Falls and enquire into the state of the Reserve, the nature or cause of the complaints preferred, and the remedy that might appear applicable thereto.

A copy of the Report of those officers, dated 26th April, together with one from 10 the Commanding Royal Engineer and Ordnance Storekeeper at Headquarters, dated + 22nd July, to whom the former was referred, are herewith enclosed, and concurring in the opinions contained therein, we beg to submit the same for the consideration of His Lordship the Master-General and Honourable Board.

*+ Not in evidence*

It will be observed on perusal of the former report that the irregularities complained of arise chiefly from a want of the exercise of sufficient authority by the Department itself over the property vested in it, from the rapacity of interested individuals who assume to themselves right in the absence of such authority, and a most probably interested reluctance on the part of the resident Magistrate to interfere in the suppression of the tumult, or to protect the Ordnance property.

20 To meet the difficulties it is proposed to recall all licenses of occupation heretofore granted by local authorities to private individuals, and that the parties now in possession should be permitted to remove their buildings or continue their occupation at fair rent and under leases, excluding, in special terms, all right over the approaches, or power to obstruct free access to the Falls,—that the boundaries be defined, and that the Ordnance Reservation be divided into two or three lots, each comprising one or more of the principal localities, as more particularly referred to in the 11th paragraph of the report of Colonel Holloway and Mr. Elliott, and that the whole be then let by public tender under proper restrictions for seven years; the rent of which it is conceived would fully cover the expense of repairing and fencing 30 the roads, and the pay of a respectable person, not exceeding five shillings sterling per day, maintaining a general superintendence over the Reserve, restraining trespassers and applying to the local magistrate for the correction of any abuse or interruption to the occupant of lands.

Should the Master-General and Honourable Board be pleased to entertain the same view, we would recommend our being authorized to employ a person at the rate specified, and that in the future estimates a sum never exceeding the amount of the rent to be derived shall be taken therein, the receipt and expenditure to be included in the accounts of the Deputy Storekeeper at Toronto by regular vouchers, by which course, without imposing any charge upon the public, a sufficient income 40 may be derived to cover all expense of superintendence and improvement of the

recall all licenses of occupation heretofore  
granted by local authorities to  
private individuals

that the boundaries be defined

approaches to this great natural feature of the country, which at present are a public reproach.

The petition of a Mr. Price, to His Lordship the Secretary of State for the Colonies, praying permission to erect stairs of approach to a cave near the Falls, and complaining that this Department had refused to allow him to interfere with the banks (which prohibition was considered necessary by the Commanding Royal Engineer, having been referred to us by the Governor-General), we conceive it right as bearing upon the subject to lay before His Excellency, previous to transmission, the two reports herein alluded to and the proposition now made, and it will be seen by  
 10 the enclosed copy of a letter from Lieut. Colonel The Honourable R. Bruce, His Lordship considers the measures suggested to be unexceptionable, as well as those contained in a minute of Colonel Holloway, dated 3rd instant, the concluding part of which refers to the appointment of a Stipendiary Magistrate, the payment of whose salary it has been submitted in reply to the question contained in the concluding paragraph of Colonel Bruce's letter, we are not prepared to state could be borne out of the rents to be received until their amount had been ascertained, or the previous wishes of His Lordship the Master-General and Honourable Board communicated to us.

We have, etc.,

20

W. HOLLOWAY,

*Col. Commanding R. Engineer.*

T. DYNELEY,

*Col. Commanding R. Artillery.*

J. S. ELLIOT,

*Ordnance Storekeeper.*

W. A. BLENKARNE,

*Deputy Ordnance Storekeeper.*

COPY OF A REPORT BY THE ASSISTANT INSPECTOR-GENERAL OF FORTIFICATIONS ON  
 THE FOREGOING LETTER.

30 This appears to me to have the aspect of a civil transaction only, as regards the Ordnance property at the Falls of Niagara. Whilst the Ordnance shall hold this part of the Military Reserve herein described, the gross receipt must according to the Treasury Regulations be credited to the Exchequer of this country, and I cannot, in justice to the maintenance of the accommodation of the troops, and the existing military establishment and defences with which the Master-General and Board are charged, recommend any part of the limited funds allowed for the Engineer Service to be applied towards the expenditure, which is herein proposed to be charged to the receipts arising from the rental of the land.

I have no plan or other description than is herein given of the whole of this Military Reserve, now vested in the Ordnance. Being, it would appear, a strip of land



extending over a distance of very many miles along the western bank of the Niagara River from the Chippeway nearly to its debouche into Lake Ontario, I cannot at present understand that it will be necessary or politic for the Ordnance to retain any other portion of this reserve than is requisite for the defences and military posts of this part of the Niagara frontier, with such communications between them as are not kept up for public use. And if this view be concurred in, I presume all the property near the Falls of Niagara, which occasions the disputes and irregularities referred to in this report, would probably revert to the Provincial Government, who would apply the revenue, and conduct the expenditure, without the interference of the Ordnance.

- 10 I do not anticipate that the property at the Falls and the Whirlpool would ever be wanted for permanent military occupation, but upon this question I think it would be advisable for the Colonial Secretary of State to refer to the Commander of the Forces (to whom no allusion is made in this correspondence) so that whatever portions of this reserve are not required for specific military objects may as before suggested be transferred to the Colonial Government.

E. F.,

*Asst. I.G.F.*

28th December, 1848.

COPY OF A REPORT FROM THE CHIEF CLERK TO THE CLERK OF THE ORDNANCE ON  
THE PRECEDING REPORT.

- 20 In obedience to this reference I beg to state that I have carefully perused this correspondence, relative to the property at the Falls of Niagara, and as far as regards the financial considerations I beg to report as follows:—

It appears the property in question forms part of the Military Reserve, now vested in the Ordnance, extending along the western bank of the Niagara River from the Chippewa nearly to its debouche into Lake Ontario.

- And the Inspector General of fortifications states that he "cannot at present understand that it will be necessary or politic for the Ordnance to retain any other portion of this reserve than is requisite for the defences and military posts of this part of the Niagara frontier, and that therefore the property at the Falls of Niagara, which occasions the irregularities and disputes referred to, would probably revert to the Provincial Government, who would apply the revenue, and conduct the expenditure, without the interference of the Ordnance."

He further states that he does "not anticipate the property at the Falls would ever be required for permanent military occupation," and suggests that "the Colonial Secretary of State should refer to the Commander of the Forces in Canada, so that whatever portions of the reserve are not required for specific military objects may be transferred to the Colonial Government."

- I beg therefore to submit, should the Honourable Board be pleased to concur in the Inspector General's suggestion, and should the reference of the Secretary for the Colonies to the Commander of the Forces in Canada, prove decisive as to the transfer

From the Chippeway nearly to its  
debacle into Lake Ontario

from Chippawa to Lake Ontario

to the Colonial Government of any parts of the reserve, but more especially of the property in question, that it would appear quite unnecessary the Ordnance estimates should be burdened with the pay of a constable, warden or superintendent, the expenses of keeping up pathways, fences, and forming ornamental improvements to the approaches, and more particularly with the pay of a Stipendary Magistrate, which must otherwise unavoidably be the case, however much the rents may be hereafter increased, since all receipts are now, according to the Treasury regulations, to be credited to the Exchequer of the country.

The rents now obtained are, and would most probably be hereafter of little 10 beneficial result to the funds of the Exchequer, and the endeavour on the part of the Ordnance Department, through the agency of a constable warden, and a Stipendiary Magistrate, to exercise sufficient authority over the rapacity of the interested occupiers would in all probability be productive of much unsatisfactory labour and eventual additional expense.

While on the other hand the property, if in the possession of the colony, might be much improved in value under the proper surveillance of the Local Government, and the irregularities and disputes of the occupiers subdued.

But in the interim, as it is undoubtedly the duty of this department, while in possession of the property, to obtain as much benefit to the Exchequer as possible, 20 and as it would appear the rent at the Falls may be considerably increased by recalling all licenses of occupation heretofore granted by local authority, and letting them by public tenders under proper restrictions for seven years or any other shorter period the Honourable Board may think proper, it might not only have the effect of increasing the revenue, and be the means of ascertaining correctly the amount thereof, but also, in some degree, of lessening the irregularities and disputes at present complained of.

I would therefore further submit, in such case, that the Respective Officers at head quarters, Montreal, be instructed accordingly, and that they direct the Barrack Master at Niagara, who is already a sub-accountant to the Deputy Storekeeper at 30 Toronto, to call for tenders for leasing the several sites at the Falls and Whirlpool, and to report to the Respective Officers at Toronto, and also at head quarters, Montreal, in any case of difficulty or dispute that may thereafter arise, in order that that the same may be regularly laid before the Civil Government, by whose authority alone, it is considered, the public peace can be maintained.

I would also beg leave to observe, that until the whole of the reserve has been surveyed and the portions to be retained by the Ordnance are properly defined, no satisfactory conclusion can be come to as regards the financial considerations.

J. THOMAS.

11th January, 1849.

*Deems  
never to have  
been surveyed  
see Survey acts  
13 Oct 1851*



OFFICE OF ORDNANCE, 26th January, 1849.

SIR.—I have the honour by desire of the Master-General and Board of Ordnance to request you will submit to Earl Grey the enclosed copies of a letter dated 28th November, 1848, from the Ordnance officers at Montreal, Canada, upon the subject of certain irregularities and disputes among interested individuals who have assumed to themselves the conducting of visitors at the Falls of Niagara, thereby interfering with the property of this department, to which letter is annexed a report from the Assistant Inspector General of Fortifications, and another from the Chief Clerk to the Clerk of the Ordnance on the subject.

10 Lord Grey will discover from a perusal of the correspondence that the subject has been considered by this department mainly in a military point of view; and it being concluded that the property near the Falls would not probably be required for permanent military occupation, the Master-General and Board have decided (as seems most judicious) to adopt the suggestion offered by the Assistant Inspector-General of Fortifications, and responded to by Mr. Thomas, namely, that ultimately the property near the Falls, with the exception of any portion of the reserve which on further investigation may be deemed requisite for defences and military posts of this part of the Niagara Frontier, should revert to the Provincial Government, who might apply the revenue and conduct the improvements of this great national feature of 20 the country without the interference of the Ordnance. But in the meantime the Master-General and Board have decided, as suggested by the Respective Officers, to recall all the licenses of occupation connected with these Falls granted by local authority, and to re-let them by public tender, under proper restrictions, for such period as may be thought proper—a course of proceeding that may increase the revenue, be the means of ascertaining the correct value of the rentals, and may likewise tend to lessen the disputes now complained of.

Prior however to issuing their final orders hereon to the Respective Officers at Montreal or Toronto, the Master-General and Board are anxious to obtain the previous sanction of the authorities in Canada as well in regard to determining the portions of land which it may not be necessary to retain for military purposes—and 30 which as such may be eventually transferred to the Colonial Government—as to the arrangement that may be made for letting the sites during the intermediate period.

The Master-General and Board beg therefore to request that Earl Grey will be good enough to give such instructions as His Lordship may think proper to the Governor and Commander of the Forces with a view to the due consideration of the matters that may be brought before them by the Respective Officers at Montreal in relation to the before mentioned object.

I have, etc.,

R. BYHAM.

40 H. MERIVALE, Esq.,  
&c., &c., &c.



RECEIVED 27th February, 1849,

DOWNING STREET, 9th of February, 1849.

Military

No. 3.

SIR.—I transmit herewith, for your information, copies of a letter and of its enclosures which have been received from the Board of Ordnance, relative to certain irregularities which have taken place on the Ordnance lands in the vicinity of the Falls of Niagara; and I have to instruct you to give your attention to such communications as may be made to you by the Respective Officers of Ordnance in Canada on the subject of making over to the Provincial Government such of those lands as may not be actually required for purposes of defence.

I have the honor to be, Sir,

Your obedient humble servant,

GREY.

Lieut.-General Sir Benjamin D'Urban, K. G. C. B.

etc.,        etc.,        etc.

## No. 87.

20 LETTER FROM ORDNANCE OFFICERS TO MILITARY SECRETARY OF GOVERNOR-GENERAL, RESPECTING BILL TO INCORPORATE "QUEENSTON SUSPENSION BRIDGE COMPANY."

O. 2554.

Received 7th April, '49, N.B.

OFFICE OF ORDNANCE

MONTRÉAL, 5th April, 1849.

SIR:—In transmitting for consideration of the Commander of the Forces the enclosed copy of a Bill now before the Provincial Legislature, intituled "An Act to incorporate the Queenston Suspension Bridge Company,"

30 We have the honor to state that the contemplated bridge will necessarily encroach upon the Military Reservation of one chain along the bank of the River Niagara, and is considered by the Commanding Royal Engineer to be extremely objection-

## No. 87A.

OFFICE OF ORDNANCE,

MONTREAL, 6th March, 1850.

SIR:

Her Majesty's Government being desirous of obtaining accurate information in regard to the extent and situation of the Military Reserved Lands in Canada, and as we apprehend there are in some instances tracts of land that are designated in the records of the Crown Land Department as set apart for purposes of Defence, but of which the Ordnance Department has no cognizance. We have the honor to request you will have the goodness to favor us with a return of all lands, with their extent, which may have been reserved for Military purposes, in order to enable a satisfactory report upon the subject to be sent to England.

We have the honor to be, Sir, your most obedient humble servants,

(THE COM'G ROYAL ENGINEER)

(Sick)

(Signed) THOS. DYNELEY,

Colonel Comm'g Royal Artillery.

(Signed) W. SMITH.

(Signed) W. H. BLENKARNE.

CROWN LAND DEPARTMENT,

TORONTO, 23rd May, 1850.

GENTLEMEN:

20 In compliance with the request conveyed in your letter of the 6th March last statements of the extent and situation of the Military Reserved Lands in Canada have been prepared and are enclosed herewith.

I have, etc.,

The Respective Officers of

Her Majesty's Ordnance Headquarters,  
Montreal.

(Signed) J. H. PRICE.

(Enclosure with preceding letter).

## NOTES RESPECTING THE MILITARY RESERVES IN UPPER CANADA:

In addition to the reserves contained in the accompanying copy of a statement prepared by 30 the Surveyor-General in 1830 there are : \*

1st. The Burlington Heights Reserve containing about 178 acres.

2nd. A Water Lot near the Cataraqui Bridge, City of Kingston, containing 71 acres granted in 1845.

3rd. About 754 acres have been reserved from sale at Point Edward, in the Township of Sarnia, lest they should be required for Military purposes. There is not, however, any Order-in-Council or other authority setting the land apart as a Military Reserve.

4th. Along the line of the Rideau Canal there are several parcels of Ordnance Lands which have been surveyed by the Ordnance, but as this Department has not been furnished with copies of the Plans and Returns of survey, no accurate information can be given as to the 40 extent or position of these lands.

Since the statement of 1830 was prepared about 206 acres of the Reserve at Toronto have been subdivided into Town Lots and sold, 74 acres have been granted for the use of the Provincial Lunatic Asylum, and two acres to Mr. Parr.

Crown Land Department,

Toronto, 23rd May, 1850.

(Signed) J. H. PRICE.

\*Note—This statement is printed as Exhibit No. 68. Appendix A, p. 216, and note (see letters to Heads of Departments, vol. 1, page 396) at foot of that Exhibit refers to above statement.  
(Signed) J. H. Price.



12 Vic 199

erroneous see next page

able in a military point of view, as affording a ready means of access to this Province from the United States, in addition to the inroad on the frontier by the Suspension Bridge already in course of erection near the Falls of Niagara; under which circumstances we beg to suggest, if His Excellency concur in this objection to the proposed measure, that the interference of the Governor-General may be requested and His Lordship solicited to withhold his sanction to the bill.

Endorsed  
O 2554,  
Respective Officers,  
H. M. O.  
MONTREAL, 5th April, 1849.  
Rec. 7.  
To P. Secy. 9.  
From—12,—C. 3550.  
Ans.—13.

10

The bill is requested to be returned.

We have the honour to be, sir,

Your most obedient humble servants,

THOS. DYNELEY,

*Colonel Com. Royal Artillery.*

W. H. BLENKARNE,

*D. O. S.*

W. HOLLOWAY,

*Colonel Com. Royal Engineer.*

J. S. ELLIOTT,

*O. S.*

20

The Military Secretary,  
&c., &c.

## No. 88.

LETTER FROM ORDNANCE OFFICERS TO COLONEL BRUCE, MILITARY SECRETARY TO GOVERNOR-GENERAL, PRELIMINARY TO SURRENDER OF 1ST OCTOBER, 1852, EX. NO. 91.

OFFICE OF ORDNANCE,

30

MONTRÉAL, 12th June, 1850.

SIR,—Reverting to the subject of your communication of the 14th October, 1848, respecting the management and control of the Military Reserve at and in the vicinity of the Falls of Niagara, and in reference to the instructions which we are advised by the Master-General and Board of Ordnance have been conveyed from Earl Grey to His Lordship the Governor-General, relating thereto;

The site of the Queenston Suspension Bridge  
was not on the one chain - 12 V. 1999

The site was on part of the Military  
Reserve at Queenston Proper -

See plan No 8 in Appx B.

Note also in plan No 10 of Queenston Mill Res  
that the chain (undefined portion  
of the Reserve) is placed on the  
top of the Bank -

Whereas in the Patent Lot No 3 page 130,<sup>Appx A</sup>  
the reservation is at the bottom of  
the Bank - one chain from the  
water edge.

See Queenston Map Plan 14 Appx B.

Show's even more distinctly that  
<sup>Queenston</sup> the Suspension Bridge is within  
the Military Reserve proper

Dr. Gopages Plan 19 Appx B

Show's the Queenston Suspension Bridge  
as within the Reserve proper  
and <sup>devalues</sup> places the Chain <sup>to be</sup> on the Top of  
the Bank instead of at the Bottom  
in accord with the patent

See line 30 page 312

We have the honour to state for the information of His Excellency that having been in communication with the Lieutenant-General Commanding and received that Officer's concurrence in the measure, we are prepared to surrender to the Civil Government the charge of such parts of that reserve as lie in front of lots 1, 20, 21, 40, 41, 58, 59, 74, 75, 92, 145, 159, 160, 174, 175, 190 and part of 191 in the Township of Stamford, which the Lieut.-General, in conjunction with the Commanding Royal Engineer, consider to be unlikely to be required for purposes of defence, retaining under control of this Department the whole of the Reserve at Chippewa, the ferry at the Falls, and the road leading to it, the Reserves at Queenston and Niagara and that 10 extending along the bank of the river in front of the lots in the township of Niagara, numbered from 1 to 22.

As under the provisions of the Provincial Statute 7 Vict., cap. XI, the whole of these reserves are vested in the Principal Officers of Ordnance for the purposes therein set forth, we conclude a legal relinquishment will be requisite to enable the Provincial Government to assume the charge over or to grant conveyance of those portions now proposed to be surrendered to its control, and we would beg to recommend that the Attorney-General for Canada West be directed to prepare such instruments as may be requisite to achieve that object for the signature of James Sutton Elliott, Esquire, the officer legally constituted to act on the behalf of the Principal Officers, 20 at the same time suggesting that as doubts and difficulties have existed respecting the extent of the Reserves in question, such instrument should only reconvey to the Provincial Government such interest, or supposed interests, as may be invested in the Principal Officers by the provisions of the Statute before quoted, keeping this Departments free from any guarantee in respect to those interests which might produce future difficulty or litigation.

We have, &c.,

THOS. DYNELEY,

*Col. Commanding Royal Artillery.*

J. S. ELLIOTT,

*O. S.*

ALEXR. GORDON, *Capt.*

*for the Com'g: Royal Engineer.*

W. H. BLENKARNE,

*Dy. O. S.*

Lieut.-Col. the Hon. R. BRUCE, &c., &c., &c.

"The road leading to it" (the Ferry) | 12 June 50  
Appellants say explanation  
of the expression is to be found  
upon plan No 8 appendix B - the Respondents  
do not concur in that explanation - it is clearly  
inapplicable

The Ferry at the Falls - The Statutes  
8 Vic ch 50 & 9 Vic ch 9 make it  
impossible that any one since 1846  
could acquire a right to ferry otherwise  
than by direct grant from the Crown

It had never been surveyed  
up to 11 January 1849 says  
W. Thomas at page 290

## No. 89.

REPORT OF CROWN LANDS COMMISSIONER J. H. PRICE, AND PROCEEDINGS IN COUNCIL IN REFERENCÉ TO THE SLOPE OF THE RIVER BANK AND THE BEACH LOTS AT THE FALLS, AND TO PROPOSED SURRENDER OF CHAIN RESERVE BY ORDNANCE OFFICERS, AUTHORIZING ATTORNEY-GENERAL TO PREPARE NECESSARY INSTRUMENT.

With this statement, from the office of the Board of Public Works, is an application dated 10th September, 1849, from Mr. Thomas Barnett, of Niagara Falls, who 10 states that he is the proprietor of the museum and other objects of public resort thereat, and he applies for protection against Mr. W. O. Buchanan and the Niagara Falls Company. A letter from Mr. W. O. Buchanan to the Provincial Secretary, dated 22nd October, 1849, is also placed herewith, applying for permission to erect a Perpendicular Railway and Staircase near the Table Rock, and to construct a wharf as a landing place for the steamer which ferries in the vicinity of the Falls, &c., &c.

In granting the farm lots in the Township of Stamford, adjacent to the Falls, they are bounded in front by the reservation of one chain at the top of the bank, which has of late years been regarded as Ordnance property. Between this reservation and the brink of the river or water's edge is the slope of the bank, and whatever 20 bank there may be. This slope of the bank, the beach and the water lot, desired as a landing place (as expressed in Mr. Buchanan's application), appears to be at the disposal of the Provincial Government, and it is submitted whether it would not the most contribute to the adoption of arrangements satisfactory to the public in respect to the objects of interest at the Niagara Falls were a license of occupation for a period of five years to issue, placing the slope of the bank, the beach and the water lot under the charge of the County Council of Lincoln; and should the system result in a judicious management, the charge thereof might eventually be permanently placed under the same body.

J. H. PRICE.

80 CROWN LANDS DEPARTMENT,

TORONTO, 24th June, 1850.

[*Enclosure in the preceding document of the 24th June. 1850.*]

TO HIS EXCELLENCY THE RIGHT HONOURABLE THE EARL OF ELGIN AND KINCARDINE,  
GOVERNOR-GENERAL, &c., &c., &c.

On the communication of Thomas Barnett [1844] complaining of the conduct of the authorities and of certain individuals at the Niagara Falls; also on the communication of D. McFarland, Esq., M.P.P. [1843] enclosing a letter from W. O. Buchanan, requesting, on behalf of certain parties, permission to construct a wharf under the cliff at Niagara Falls, which have been referred to this Department for report; the



Chief Commissioner of Public Works has the honour to state that he finds on enquiry that the property in question is not under the control of the Provincial Government, but under that of the Ordnance Department, which is entitled to all the land from the water's edge to a line drawn along shore and one chain beyond the top of the bank.

The Chief Commissioner is therefore unable to supply any further information on these subjects as desired by Your Excellency in Council.

Respectfully submitted,

*A. S. CHABO,*

*Chf. Comm.*

26th March, 1850.

10 The Respective Officers of the Board of Ordnance propose to reinvest in the Crown the Chain Reservation along the banks of the Niagara River lying in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75, 92, 145, 159, 160, 174, 175, 190, and part of number 191, in the Township of Stamford, retaining under the control of the Board of Ordnance and the Respective Officers of that Department the whole of the Reserve at Chippewa, the Ferry at the Falls and the road leading to it, the Reserves at Queenston and Niagara, and that extending along the bank of the river in front of the lots in the Township of Niagara numbered from 1 to 22.

It appears desirable to accept the proposition made by the Respective Officers, and it is suggested that the requisite instrument be prepared by the proper Law Officer. 20 Upon the object contemplated being accomplished, the entire control of the public property at the Falls of Niagara will be in the hands of the Provincial Government, and such arrangements may be made in relation to the application of Messrs. Thomas Barnett and W. O. Buchanan reported on 24th June, 1850, and that of James Buchanan, Esq., referred to a Committee of the Council this day, and a second application from Mr. Barnett dated the 25th ult., transmitted herewith, as they may be found respectively to merit.

J. H. PRICE.

CROWN LANDS DEPARTMENT,

TORONTO, 16th July, 1850.

30 EXTRACT FROM A REPORT OF A COMMITTEE OF THE HONOURABLE THE EXECUTIVE COUNCIL ON LAND APPLICATIONS, DATED 26TH OCTOBER, 1850. APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL ON THE 28TH OF THE SAME MONTH.

On the letter of the Respective Officers of the Ordnance, dated 12th June, 1850, proposing to reinvest in the Provincial Government the chain Reservation along the banks of the Niagara River in the vicinity of the Falls;

AND

On the conflicting applications of Messrs. W. O. and James Buchanan and Thomas Barnett, relative to the exclusive right which they respectively claim to the slope of the bank and beach lot in the neighbourhood of Table Rock, and the 40 privileges which attach to the same :



The Committee humbly advise that the Honourable the Attorney-General West be instructed to prepare and cause to be executed the necessary instrument to effect the re-conveyance from the Respective Officers of Ordnance to the Crown of the Chain Reservation above referred to, after which it will be competent to the Provincial Government to settle the difficulties and dispose of the conflicting applications, with due regard to the claims of the respective petitioners.

Certified,

J. JOSEPH, C.E.C.

To the Honourable

The Commissioner of Crown Lands,

10

&c., &c., &c.

Ent'd O. C. B. 10, p. 301.

## No. 89A.

### BOOK FROM WAR OFFICE, ENTITLED CANADA.

NIAGARA, QUEENSTON, CHIPPEWA, FORT ERIE, AND PELHAM, OR SHORT HILLS.

1851.

#### *Barrack.*

No. 1.—A STATEMENT of the whole extent of the Ordnance Lands at Niagara, C.W., whether Freehold, Copyhold or Leasehold; showing the quantity of each Description, whether Arable, Meadow or Pasture, and the Names of the Persons under whom the Copyhold and Leasehold Property is held.

Name of Lands.	Description of Holding.	Whether Arable, Meadow, Pasture.	Extent in Acres.	Remarks.
			A. R. P.	
Butler's Barracks, Barrack Master's Quarters and office, Commissariat Quarters and office, Red Barracks and Wharf, Commandant's Quarters, Hospital.....	Freehold .....			
Blue Barracks, Fort Mississagua, and Lower Barracks, Royal Engineers Quarters and office, Guard Room on lake shore and Fort George Reserve.....	" . . .	Pasturage.....	366 3 18	
Fort Mississagua Reserve.....	" . . .	" .....	71 1 15	
Block on King Street.....	" . . .	" .....	4 0 0	
Market Reserve.....	" . . .	" .....	2 0 0	
Fort George leased to J. Meneilly.....	" . . .	" .....	8 0 0	
Butler's Barracks, Parade Ground.....	" . . .	Parade ground.....	2 1 4	
Fort " "	" . . .	" .....	0 1 23	
Land attached to Commandant's Quarters .....	" . . .	Pasturage and garden..	8 0 0	

NIAGARA.

74

462.3.20  
12.2.0  
465.1.20  
475.1.20



No. 1.—A STATEMENT of the whole extent of the Ordnance Lands at Niagara, C. W., &c.—*Concluded.*

	Name of Lands.	Description of Holding.	Whether Arable, Meadow, Pasture.	Extent in Acres.	Remarks.
NIAGARA.	Land attached to Commissariat Quarters.....	Freehold....	Pasturage and Garden.	1 0 0	A. R. P.
	Land attached to Surgeon's Quarters and Hospital.....	" .....	" ..	4 0 0	
	Land attached to Barrack Master's Quarters.....	" .....	Garden.....	2 0 0	
	Land attached to Barrack Master's Office.....	" .....	" .....	1 0 0	
	S. of Butler's Barracks, leased to J. Meneilly.....	" .....	Pasturage.....	1 2 0	
	Land attached to Royal Engineer Quarters .....	" .....	Garden.....	2 0 0	
	Land attached to Royal Engineer Office.....	" .....	" .....	1 0 0	
				12.20	
RIVER.	One chain in width from top of bank along the Niagara River from Fort Erie Reserve to Fort George Reserve.....	Freehold ...	Pasturage .....	276 0 0	It is 2,760 chains in length, from Capt. Bayfield's survey.
QUEBENSTON.	Queenston Barrack, Wharf and Cook-house and Reserve.....	Freehold ...	Pasturage .....	112 0 0	This is from a survey signed Wm. Hawkins, D. L. S., Nov., 1838.
FALLS.	Reserve adjoining Niagara Falls....	Freehold ...	Pasturag <sup>a</sup> .....	0 1 22	
	Chippewa Barracks and Reserve.....	Freehold ...	Pasturage .....	19 3 29	From a survey signed F. F. Passmore, P. L. S., 5th Sept., 1851.
	Lyons Creek.....	" .....	" .....	3 0 0	
	Fort Erie Reserve.....	" .....	" .....	1000 0 0	
	Government Farms, Short Hills, Township of Pelham, County of Welland ..	" .....	Arable.....	200 0 0	

F. WEBBER SMITH, *B.M.*

No. 2.—A STATEMENT of the Ordnance Lands at Niagara, C.W., occupied by, or applied to the benefit of Officers of the Department, for which no rent is paid.

*Nil.*

F. WEBBER SMITH, *B.M.*



No. 3.—A STATEMENT of the Ordnance Lands at Niagara, C.W., let to Individuals, with the Names of the Occupiers and the Rent arising therefrom, with the date of the Board's Order for letting the same.

Nam of Land.	Names of the Occupiers	Rent per Annum.	Date of B.O. for Letting.	Remarks.
Niagara, Fort George...	John Meneilly ..	£ 10 0 .....		
Part of Market Reserve.	Richard Howard ..	0 8 2 .....		Date of lease, 19th Aug., 1847. do 20th Jan., 1848.
Engineer Office and land attached .....	James Colebrook ..	5 16 8 .....	29th Jan., 1851, M 1381.	
Engineer Qr. and land attached .....	James Baxter..	5 0 0 .....	17th Sept., 1849, M 1616.	
South of B tler's Barracks .....	John Meneilly ..			For which an annual quit rent is paid.
House and land by Red Barracks .....	Andrew Heron..	0 5 0 .....		
Queenston Roadway, &c., to the Suspension Br'ge Co.	Suspen. Br'ge Co.			
Ontario and Erie Railroad	Ontario and Erie Railroad Co..			This house is private. A. H. holds the land by L.O. without any lease, paying 5 shillings p. an. acknowledgement. Extent of land not known by Barrack Master.
S. west angle of Reserve.	Charles Secord ..			The Suspension Bridge Co. hold 3 acres and 12 perches. This is from a survey by Capt. Freeth, R.E., May 30th, 1851.
200 feet along the River Front .....	J. Macklem ..	4 10 0 .....		This is 16 acres taken from a plan in this office signed George Rykert, D.P.S., St. Catharines, 18th May, 1833, Francis Hall, Civil Engineer, and Malcolm Loring, Prest. E. & O. R.R. Company.
Government Farm, Short Hills.....	Matthew Bland.	47 5 2 .....	2nd July, 1851, M 1542.	Charles Secord holds 15 acres by license of occupation and pays an annual quit rent.
Chippewa Barrack and 15 acres and 11 perches.	Matt'w Donahue ..	17 10 0 .....	18th Aug., 1848, T 205..	The lease is dated 22nd July, 1845. It appears from a letter dated 20th June, 1851, from Wilson & Smith, barristers, Toronto, that Mr. Macklem has been sued for rent up to 22nd July, 1850, and that an ejectment suit was being carried on at that date.
Reserve adjoining Niagara Falls .....	Adam Fralick ..	8 6 8 .....		Date of lease, 1st Dec., 1847.

F. WEBBER SMITH, B.M.



No. 4.—A STATEMENT of the Ordnance Lands at Niagara, C.W., not described in the papers Nos. 2 and 3, showing in what manner the same is appropriated.

Name of Land.	How Appropriated.	Remarks.
Butler's Barracks, Barrack Master's Quarters and Office, Commissariat Quarters, Hospital and Surgeon's Quarters, Red Barracks and Fort George Reserve .....	As shewn on plan. Part of the Reserve as drill ground for the troops.	
Fort Mississauga Barracks and Reserve.... The part of Market Reserve not let to R. Howard.....	As shewn on plan. do do	
Queenston old Barrack and Reserve .....	do do do	Nothing is known at the Barrack Office, Niagara, of Clarke & Street or the Hamilton estate.
Chippewa—The island opposite the Barracks Lyon's Creek Reserve..... Fort Erie Reserve.....	Notice to quit having been served on the occupants agreeably to the Board's order, 19th March, 1851, M 1416 .....	Par 11.
The remainder of the Reserve of one chain from top of bank along the Niagara River	No plan in this office to give any information.	

X F. WEBBER SMITH, *B.M.*

No. 5.—A STATEMENT of the Dwelling Houses the Property of the Ordnance at Niagara, C.W., occupied by Officers of the Department.

*Nil.*

F. WEBBER SMITH, *B.M.*



No. 6.—A STATEMENT of the Dwelling Houses and other Buildings, the Property of the Ordnance, at Niagara, C.W., let to individuals, with the rent arising therefrom, and the date of the Board's Order for letting the same.

Dwelling Houses and Buildings.	Rate Per annum Sterling.	Date of Board's Order for Letting.	Remarks.
	£ s. d.		
Canteen, Butler's Barracks.....	5 0 0	29th Sept., 1848.....	10s. and 9d. per 10 men.
“ Fort Mississagua.....	5 0 0	30th Oct., 1850.....	1s. per 10 men.
Guard House on the Beach.....	2 19 2	4th Sept., 1850, K. 71..	
QUEENSTON.			
Cook House.....	0 10 0	.....	Date of lease, 27th Nov., 1848.
Small Frame House.....	0 10 0	16th Nov., 1849, T. 1074.	
Houses occupied by Kitson .....	0 5 0	.....	{ The houses are private property, and are allowed to remain on payment of 5s. per annum quit rent. The ex- tent of land is unknown.
Houses occupied by widow Finnemore..	0 5 0	.....	

F. WEBBER SMITH, *B. M.*

No. 7.—A STATEMENT of the Buildings of every description hired at Niagara, C.W., for the use of the Ordnance, shewing the manner in which such Buildings are applied and the Rent paid for the same, with the date of the Board's Order authorizing the hire of the Buildings.

*Nil.*

F. WEBBER SMITH, *B.M.*



No. 8.—A STATEMENT of the Storehouses, Magazines, Workshops, &c., the Property of the Ordnance at Niagara, C.W., shewing their dimensions, the materials with which they are constructed, and the purposes to which they are applied.

Number Letter Plan.	Description of Building.	Dimensions.			Materials With Which Constructed.	How Applied.
		Length. ft. in.	Breadth. ft. in.	Height. ft. in.		
	Barrack Store.....	100 0	25 0	8 0	Wooden frame..	As such.
	Quarter Master's Store.....	31 0	14 6	8 0	do ..	do
	Straw Shed.....	50 0	20 0	13 0	do ..	do
	Ordnance Store.....	18 0	12 0	6 0	do ..	do
	Royal Artillery Store.....	18 0	12 0	10 0	Brick .....	do
	Magazine No. 1.....	7 3	16 6	7 3	do .....	do
do	2.....	11 6	10 9	6 0	do .....	do
do	3.....	11 6	10 9	6 0	do .....	do
	Commissariat Store and Office.....	60 0	30 3	22 4	Wood frame....	do This is one building on plan.

F. WEBBER SMITH, B.M.

No. 9.—A STATEMENT of the Barracks at Niagara, C.W., showing the number of Field Officers, Captains, Subalterns, Non-commissioned Officers, and Private Men they are calculated to contain.

Name of Barracks.	Accommodation.					Temporary Accmodation. N.C.O. and Pri- vates, 500 cub. ft. per man in barracks, and 700 in hospital.	Remarks.
	Field Officers.	Officers.	N. C. O. and Privates.	Patients.	Horses.		
Butler's Barracks.....	2	6	88 .....	56	48		
Stable Barracks.....			72 .....		51	This Barrack is in the enclosure of Butler's Barracks.	
Red Barracks.....			56 .....		34		
Blue Barracks.....			6 .....		1		
Fort Mississagua.....		2	75 .....		32	The appropriation of this Bk was changed in 1849 from 3 officers to 2.	
" Lower, Mississagua.....			36 .....		26	This is in Fort Mississagua.	
Queenston Barracks.....			50 .....			Vacant; out of repair.	
Chippewa Barracks.....			80 .....			Under lease.	
Hospital at Niagara.....		1	33 .....		50		

F. WEBBER SMITH, B.M.



## No. 90.

CORRESPONDENCE OF COMMISSIONERS PRICE AND ROLPH, RESPECTIVELY, AND OF ATTORNEY-GENERAL BALDWIN, WITH THE ORDNANCE OFFICERS, SUBMITTING AND RESPECTING DESCRIPTION OF THE LANDS TO BE EMBRACED IN THE SURRENDER, AND THE DRAFT SURRENDER. THE LETTER OF THE 5TH FEBRUARY, 1852, ENCLOSED PLAN NO. 17 OF APPENDIX OF PLANS.

DESCRIPTION of all that parcel of land in the Township of Stamford in the County of Welland, being the chain reservation along the top of the bank of the Niagara River in front of Lots Nos. 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92 of the said township, that is to say.

Commencing in the northern limit of the said lot No. 1, at the distance of one chain from the top of the bank of the River Niagara, then southerly, parallel to and always at the distance of one chain from the said top of the bank, 300 chains more or less, to the limit between lots Nos. 92 and 93; then east one chain to the said top of the bank of the River Niagara; then northerly, following the same, with the stream, to the aforesaid northern limit of lot No. 1 produced; then west 1 chain to the place of beginning; containing 30 acres, more or less.

J. H. PRICE.

20 CROWN LAND DEPARTMENT,

Toronto, 9th May, 1851.

Also description of all that parcel of land in the Township of Stamford in the County of Welland, being the chain reservation along the top of the bank of the River Niagara in front of lots numbers 145, 159, 160, 174, 175, 190 and part of 191, of the said township, that is to say:—Commencing in the limit between lots numbers 144 and 145, at the distance of one chain from the top of the bank of the River Niagara; then southerly and easterly parallel to and always at the distance of one chain from the said top of the bank 180 chains, to a line produced north from the centre of the southern boundary of lot number 191 to the Niagara River; then north one chain to the top of the bank of the said river; and then westerly and northerly, following the same, with the stream, to the aforesaid limit between lots numbers 144 and 145 produced; then west one chain to the place of beginning; containing 18 acres more or less.

CROWN LAND DEPARTMENT,

Toronto, 9th May, 1851.

OFFICE OF THE ATTORNEY-GENERAL FOR UPPER CANADA.

GOVERNMENT HOUSE,  
Toronto, 20th September, 1851. }

The Principal Officers of Her Majesty's Ordnance, Montreal.

40 GENTLEMEN,—I have the honour to enclose you the draft of surrender from the Principal Officers of Her Majesty's Ordnance in the case of the chain reservation

of Appendix B

The letter of 5 Feby 1852 enclosed plan N<sup>o</sup> 17 X

along the top of the bank of the Niagara River, prepared in conformity with the Order of His Excellency in Council of 28th October, 1850, on your letter of 12th June, 1850, and that of the Commissioner of Crown Lands to me, 9th May last. And so soon as the same is approved of by you, the surrender can be prepared for execution.

ROBERT BALDWIN.

*Enclosure.*

To all to whom these presents shall come :

The Principal Officers of Her Majesty's Ordnance by Her Majesty's  
10 Ordnance Storekeeper in Canada, duly authorized and empowered in that behalf, according to the form of the statute in such case made and provided, send greeting ;

Whereas by and under the authority of an Act of the Provincial Parliament of Canada, passed in the seventh year of the reign of Her Majesty Queen Victoria chaptered Eleven and intituled "An Act for vesting in the Principal Officers of Her Majesty's Ordnance, the estates and property therein described, for granting certain powers to the said officers, and for other purposes therein mentioned," the lands, tenements and hereditaments hereinafter mentioned and described were amongst others conveyed to and vested in the said Principal Officers for the time being, in trust for Her Majesty her heirs and successors, with the powers granted and subject to the provisions made 20 in the said Act of Parliament in that behalf. And whereas by the said Act it is amongst other things in effect enacted that it shall be lawful for the said Principal Officers to sell, exchange or in any manner to dispose of any lands or other real property vested in them by virtue of the said Act, or any estate or interest therein so vested in them, either by public auction or private contract, or to convey, surrender, assign or make over, grant, demise or deliver the same (as the case may require) to any party willing to take the same in exchange or otherwise, and also to do any other matter or thing in relation to any such lands, or other real property, which shall by the said Principal Officers be deemed beneficial for the public service, and conducive to the better management and use of the property thereby vested in them, which 30 might be done by any person having an estate or interest in the same of the same nature as shall be vested in, or held by, the said Principal Officers in trust as aforesaid. And whereas by the said Act it is also, amongst other things, in effect enacted that it shall and may be lawful for any two or more of the said Principal Officers to exercise and execute all powers, authorities and duties, and to perform, do, and execute all acts, deeds, matters and things appertaining to their office which by virtue of the said Act and by law the said Principal Officers may exercise or execute, perform and do, and that the same shall be as valid and effectual, to all intents and purposes, as if exercised, executed and performed and done by all the said Principal Officers. And that it shall also be lawful for any two or more of the said Principal Officers, and they are by the said



Act empowered from time to time, and as occasion may require, to authorize and empower any person or persons, or any officer or officers, by his or their name or title of office, to exercise and execute all, or any, of the powers authorities and duties, or to perform and do and execute any acts, deeds, matters and things which, by virtue of the said Act, the said Principal Officers may exercise, execute, perform or do, as validly and effectually as the said Principal Officers might exercise, execute, perform and do the same; and to revoke such authority at pleasure. And such authority shall, notwithstanding the death, resignation or removal from office of the Principal Officers who shall have given the same, remain in force as if given by the Principal Officers for the 10 time then being, until it shall be revoked by the Principal Officers for the time being, or any two of them.

And whereas the said Her Majesty's Ordnance Storekeeper in Canada hath by of the said Principal Officers been duly authorized and empowered to exercise and execute the powers and authorities in the said Principal Officers vested, amongst other things as far as regards the granting, bargaining, selling, surrendering, releasing, quitting claim, enfeoffing, conveying and confirming of all or any of the lands, trusts, houses or premises under or by virtue of the said Act of Parliament vested in the said Principal Officers, and which it may be expedient or necessary to grant, bargain, sell, surrender, release, quit claim, enfeoff, convey or 20 confirm to Her Majesty, her heirs or successors, or to any other person or persons, bodies politic or corporate whomsoever. And whereas such authority hath not been in any way annulled or revoked by the said Principal Officers, or any two or more of them, but remains in full force, virtue and effect; And whereas the said lands, tenements, hereditaments and premises hereinafter described are not now required by the said Principal Officers for the purposes of defence, and it is deemed most for the public service that the same should be re-vested in the Crown for the public purposes of the province as the other public lands thereof, and the same, with the concurrence of the Lieutenant-General commanding Her Majesty's forces in this province for the time being, has been accordingly agreed to be surrendered to and re-vested in Her Majesty 30 accordingly.

Now therefore these presents witness that for the considerations aforesaid, and also for and in consideration of the sum of five shillings of lawful money of Canada by Her Majesty's Receiver-General for the Province of Canada out of Her Majesty's Provincial Treasury to the said Principal Officers in hand paid, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, they the said Principal Officers, by such Ordnance Storekeeper as aforesaid, have granted, bargained, sold surrendered, released, quitted claim, enfeoffed, conveyed and confirmed, and by these presents do by the said Ordnance Storekeeper aforesaid grant, bargain, sell, surrender, release, quit claim, enfeoff, convey and confirm unto Her Majesty all and singular 40 those lands, tenements, hereditaments and premises hereinafter mentioned and de-



scribed: that is to say, all that certain parcel or tract of land situate, lying and being in the township of Stamford, in the County of Welland, in Upper Canada, being composed of the chain reservation along the top of the bank of the River Niagara in front of lots numbers one, twenty, twenty-one, forty, forty-one, fifty-eight, fifty-nine, seventy-four, seventy-five and ninety-two of the said township, and containing by admeasurement thirty acres of land be the same more or less, and which said parcel or tract of land is butted and bounded, or may be otherwise known as follows, that is to say: commencing in the northern limit of lot number one, at the distance of one chain from the top of the bank of the Niagara River; then southerly, parallel to and always at

10 the distance of one chain from the said top of the bank, three hundred chains, more or less, to the limit between lots numbers ninety-two and ninety-three, then east one chain to the said top of the bank of the River Niagara, then northerly, following the same, with the stream, to the aforesaid northern limit of lot number one produced, then west one chain to the place of beginning.

And also all that certain other parcel or tract of land situate, lying and being in the said Township of Stamford, in the County aforesaid, being composed of the chain Reservation along the top of the bank of the said River Niagara in front of lots numbers one hundred and forty-five, one hundred and fifty-nine, one hundred and sixty, one hundred and seventy-four, one hundred and seventy-five, one hundred and ninety, 20 and part of one hundred and ninety-one of the said Township, containing by admeasurement eighteen acres of land, be the same more or less, and which said last mentioned parcel or tract of land is butted and bounded, or may be otherwise known as follows, that is to say: commencing in the limit between lots numbers one hundred and forty-four and one hundred and forty-five, at the distance of one chain from the top of the bank of the River Niagara, then southerly and easterly, parallel to and always at the distance of one chain from the said top of the bank, one hundred and eighty chains, more or less, to a line produced north from the west boundary of lot number one hundred and ninety-two to the River Niagara; then north one chain to the top of the bank of the said river; then westerly and northerly, following the same, with the stream, to the aforesaid limit between lots numbers one hundred and forty-four and one hundred and forty-five produced; then west one chain to the place of beginning; together with all and singular the houses, 30 outhouses, buildings, woods, ways, watercourses, easements, privileges, profits, hereditaments and appurtenances whatsoever to the said parcels or tracts of land, tenements, hereditaments and premises, or either of them, belonging or in anywise appertaining, or therewith used or enjoyed, or known or taken as part or parcel thereof, or as belonging thereto, or to any part thereof, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, trust, claim, property and demand, both at law and in equity, of them the said Principal Officers of, in, to or out of the same, or any part thereof, to have and to hold the same lands, tenements, hereditaments and premises hereby conveyed and surrendered, or



*no warranty  
expressed or  
implied*

mentioned or intended so to be, with their and every of their appurtenances, unto Her Majesty, Her heirs and successors, for ever. Provided always, nevertheless, that neither this conveyance and release, nor the words grant, bargain, sell, surrender, release, quit claim, enfeoff, convey and confirm, or any of them, hereinbefore used by the said Principal Officers, nor anything herein contained on their part, shall extend, or be deemed or construed, either at law or in equity, to extend to either an express or implied warranty or covenant for the title to the said lands, tenements, hereditaments and premises hereby surrendered, released and conveyed, or of their right, either at law or in equity, to surrender, release, convey, sell or dispose of the same or any part thereof; these presents being expressly intended to operate merely to pass the estate or interest in, or lien upon, the said lands, tenements, hereditaments and premises, which they the said Principal Officers now have, or possibly may have, upon the same, either under or by virtue of the said Act of Parliament, or otherwise howsoever; anything herein contained to the contrary thereof in any wise notwithstanding.

In witness whereof the said Principal Officers, whose names are to these presents subscribed, by the said , Her Majesty's Ordnance Storekeeper, so duly authorized and empowered in this behalf as aforesaid, have hereunto set their hands and affixed their seals at Head Quarters, at the City of Montreal, in the Province of Canada, this day of , in the year of Our Lord 20 and in the year of Her Majesty's reign.

Signed, sealed and delivered in the presence of

HEAD QUARTERS, ROYAL ENGINEER OFFICE,

Montreal, 13th October, 1851.

MINUTE.—In reference to the Head Quarter Respective Officers' minute dated 10th October, 1851, on the Attorney-General's letter, dated 20th September, 1851, enclosing the draft of a surrender of the chain reservation along the bank of the River Niagara;

I beg to observe that the description embraces only a chain in width from the top of the bank, without taking into account the land lying between the top of the 30 bank and the edge of the river, which in some instances is considerable, especially in lot number one hundred and forty-five, and as that will join with (lot number one hundred and forty-four) the land retained by the Ordnance, it appears desirable that the adjoining boundaries should be defined on the ground, when a more correct description could be drawn up. This becomes the more necessary since the copies of plans of the Reserve at the Falls of Niagara obtained from the Crown Land Department, one by Mr. Chewett, dated 8th October, 1831, Keating and Hawkins, dated September, 1834, are at variance as to the extent of the Reserve. The same was notified in a former minute, dated 7th June, 1850.

F. W. WHINYATES,

Lt. Col. Commanding Royal Engineer.

*See ledger  
53 Oct 30 1851*



## OFFICE OF ORDNANCE,

MONTREAL, 27th October, 1851.

The Honorable,

The Commissioner of Crown Lands.

SIR,—With reference to the accompanying letter of Mr. Attorney-General Baldwin, dated 20th ulto., and the proposed draft of a surrender from the Principal Officers of Ordnance in the case of the chain reservation on the bank of the Niagara River, we have the honour to transmit for your information a copy of a Report of the Commanding Royal Engineer, dated 13th instant; and as it would appear therefrom that the plans of record belonging to your department are at variance, the one with the other, in regard to the extent of the reservation on the river bank, we are of opinion it would prove highly desirable to have the boundaries defined on the ground, as proposed by the Commanding Royal Engineer, to enable a more correct description to be embraced in the order, and we accordingly beg to suggest that you may be pleased to give the requisite instructions for that purpose, so that when the deed of surrender is passed, which this Department is most anxious to have completed, all difficulties may be set at rest and future litigation avoided.

THOS. DYNELEY,

*Colonel Com'g. Royal Artillery.*

20

B. S. STEHELING.

P. MONSELL,

*Ord. S. Keeper, Ac'g.*

W. H. BLENKARNE.

## CROWN LAND DEPARTMENT,

QUEBEC, 11th January, 1852.

To the Respective Officers of the  
Board of Ordnance, Ordnance Office,  
Montreal.

GENTLEMEN,—Upon examining the maps and records in this office bearing upon the subject of the military reservation along the Niagara River, in the vicinity of the Falls, it would not appear that anything beyond the one chain on the top of the bank has ever been recognized as constituting the military, or, now, ordnance property.

The face of the bank itself is not included in the grants which have passed into patent in favour of the individuals whose farms are adjacent to the river, and as it is considered to have been always vested in the Crown, it would apparently be inconsistent to accept from the Ordnance a conveyance embracing the face of the bank.



Consequently the surrender, a draft of which was transmitted to you by Mr. Attorney-General Baldwin in September last, would accomplish every present object.

The copy sent you herewith of the description under which lot number one hundred and forty-four and the north half of lot number one hundred and forty-five were granted will shew the terms in which the one chain was reserved.

JOHN ROLPH.

OFFICE OF ORDNANCE,

MONTREAL, 5th February, 1852.

*No 17  
M.R.  
B*

SIR,—With reference to your letter of the 11th ulto., on the subject of the description to be embraced in the deed of surrender from the Principal Officers of Ordnance to the Provincial Government of the chain of reservation along the bank of the Niagara River, we have the honour to forward for your consideration a plan, shewing the land in lot number one hundred and forty-four which is actually required for the purposes of defence, and which the Commander of the Forces has approved of being so set apart, and agreeably to which we are of opinion the description in the Deed of Transfer of the adjoining lot should be framed; since in order to prevent future litigation, it seems highly desirable that the boundary of the land to be surrendered should correspond with that absolutely to be retained by this Department.

The Draft of Deed is returned herewith.

20

We have the honour to be, Sir,

Your most obedient humble servants,

THOS. DYNELEY,

*Colonel Com'g. Royal Artillery.*

P. MONSELL,

*Ord. S. Keeper, Acting.*

BENJAMIN STEHELING,

*Major and A't. C.R.E.*

Deputy Ord. Storekeeper absent from illness.

The Honourable

The Commissioner of Crown Lands,

&c., &c., &c.

30

*NOTE :—The plan above referred to is included in the Appendix of Plans as Number Seventeen.*

CROWN LAND DEPARTMENT,

QUEBEC, 16th March, 1852.

The Respective Officers of the Board of Ordnance, Montreal.

SIR,—With reference to your letter of the 5th ultimo, relative to the reconveyance to the Crown, proposed by the letter dated Office of Ordnance, Montreal, 12th June, 1850, of such parts of the reserve as lie in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75, 92, 145, 159, 160, 174, 175, 190 and part of 191, on the bank of the Niagara River in the Township of Stamford, I have the honour to acquaint you



that upon a careful examination of the instrument which has been prepared with the view of effecting the object contemplated, it is perfectly clear that the metes and bounds inserted cannot by any possibility interfere or affect any military property not embraced by them. In the grants from the Crown to the individual proprietors of the lands bordering the Niagara River, a clause was inserted whereby a reserve of one chain from the top of the bank of the river was retained, and as the title to this is, under the Ordnance Vesting Act, claimed by the Ordnance, all that is desired is to re-vest in the Crown this chain reservation.

In regard to the Ordnance property in front of lot number one hundred and 10 forty-four, alluded to in your letter of the 5th ultimo, and marked on the sketch which accompanies it, I beg leave to observe that the space which constitutes the military property between lots numbers ninety-two and one hundred and forty-five, which you will perceive includes the reservation in front of lots numbers 93, 110, 111, 128, 129 and 144 is exempted in the draft of the deed of conveyance, leaving any right or claim which exists on the part of the Ordnance uninterfered with, and it is believed that it will be found that the instrument referred to is in every respect in accordance with the Ordnance letter of the 12th June, 1850.

JOHN ROLPH.

OFFICE OF ORDNANCE,

20

The Honourable

MONTREAL, 26th March, 1852.

The Commissioner of Crown Lands.

SIR,—As it appears from your letter of the 16th instant, that objection is entertained to the arrangement proposed in the communication made to you from this office on the 5th ultimo, with respect to the description of bounds to be introduced in the instrument for reconveying to the Crown portions of the chain reservation on the bank of the Niagara River, we have the honour to enclose for your consideration a description which has been furnished us by the Commanding Royal Engineer, and which we beg to recommend may be inserted in the deed of conveyance, 30 the same having been drawn up in general terms in consequence of the boundaries of the Ordnance property having been litigated two or three times by neighbouring proprietors.

We have the honour, &c.,

THOMAS DYNELEY,  
*Colonel Commanding Royal Artillery.*

H. G. WULFF,

*Lt.-Col. C. R. Eng.*

W. H. BLENKARNE,

*Assistant Ordnance Storekeeper.*

P. MONSELL,

O. R. MONSELL, *Acting.*



## RESERVATION ALONG THE RIVER NIAGARA.

Description to be inserted in the draft in lieu of the one transmitted by Mr Attorney-General Baldwin.

All that parcel of land situate, lying and being in the Township of Stamford in the County of Welland, in Canada West, being composed of all the reserve along the top of the bank of the River Niagara, in front of lots numbers one, twenty, twenty-one, forty, forty-one, fifty-eight, fifty-nine, seventy-four, seventy-five and ninety-two of the said township, and containing such quantities of land as may be found reserved in the Crown patents of the grants of the before mentioned lots, or  
 10 may be otherwise known as follows, that is to say: commencing in the northern limit of lot number one, at the distance of one chain from the top of the bank of the River Niagara, then southerly, parallel to, and always at the distance of one chain from the said top of the bank, to the limit between lots numbers ninety-two and ninety-three; and also all that certain other parcel or tract of land situate, lying and being in the said Township of Stamford, in the county aforesaid, being composed of all the reserve along the top of the bank of the said River Niagara in front of lots numbers one hundred and forty-five, one hundred and fifty-nine, one hundred and sixty, one hundred and seventy-five, one hundred and ninety, and part of one hundred and ninety-one of the said township, containing such quantities of land as  
 20 may be found reserved in the Crown Patents of the grants of the before mentioned lots, or may be otherwise known as follows, that is to say: commencing in the limit between lots numbers one hundred and forty-four and one hundred and forty-five, at the distance of one chain from the top of the bank of the River Niagara, then southerly and easterly, parallel to, and always at the distance of one chain from the top of the bank of the River Niagara, then southerly and easterly, parallel to, and always at the distance of one chain from the said top of the bank, to a line produced north from the west boundary of lot number one hundred and ninety-two to the said river Niagara, together with all and singular the houses, &c.

H. G. WULFF,

*Lt.-Col. C. R. Eng.*

30

22nd March, 1852.

CROWN LANDS DEPARTMENT,

QUEBEC, 31st March, 1852.

To the Respective Officers  
of the Board of Ordnance,  
Montreal.

GENTLEMEN,—I have the honor to acknowledge the receipt of your letter of the 26th instant, with which is the draft of a description which you propose shall be substituted for that in the draft of the surrender forwarded to you by Mr. Attorney-

This is a very different description - as  
it took in any quantity of Land  
which might be between the river  
and Jones original Survey that  
is at the top of the High Bank

General Baldwin, intended to re-invest in the Crown the one chain reservation in the vicinity of the Falls of Niagara.

Upon comparing the outline denoted in the description in question with the maps in the office, it is found to be insufficient, and I beg leave to call your attention to the fact that it defines but the outer boundary of the tracts, which it was intended should be conveyed by the Instrument contemplated by the letter dated Office Ordnance, Montreal, 12th June, 1850. No other metes and bounds being designated, the description is consequently incomplete, as it embraces neither of the two tracts specified in the draft of the Deed of Surrender.

- 10 As it now appears that the portion of the one chain reservation in front of that part of lot number 191, which would be intersected by a line produced north in prolongation of the west boundary of lot number 192, and is situated westerly of the said produced line, is desired to be reconveyed to the Crown, the description will of course be adopted accordingly to your intention, as now manifested.

JOHN ROLPH.

OFFICE OF ORDNANCE,

MONTRÉAL, 12th April, 1852.

To the Honourable  
Commissioner of Crown Lands.

- 20 SIR,—In acknowledging the receipt of your letter of the 31st ultimo, we have the honour now to enclose a more defined description of the Chain Reservation on the Niagara River, which it is proposed should be inserted in the deed of surrender from the Principal Officers, the former one having been drawn up in general terms, expressly to meet your views, as you had objected to the water's edge being considered the Boundary.

*But he did  
not refer  
to the water's  
edge*

We take occasion, however, to observe that the Patents granting land to individuals restrict them to within one chain of the top of the bank, where the bank recedes from the water's edge, as in lots numbers 144, Township of Stamford, but to within one chain of the water's edge where no available space exists between them, as in the broken parts of lots numbers 1, 2 and 3, Township of Niagara, thus clearly, as it would seem, pointing out that the Reserve consists of such quantities of land as may be found reserved in the Crown Patents of the grants of the before mentioned lots, viz., extending from one chain from the top of the bank to the water's edge.

We have the honour, &c.,

P. MONSELL,

THOS. DYNELEY,

*Colonel Com'g Royal Artillery.*

*O. Storekeeper Act'g.*

H. G. WULFF,

*Lt.-Col. C. R. Eng.*



## RESERVATION ALONG THE RIVER NIAGARA.

Revised description to be inserted in the Draft, in lieu of the one transmitted by Mr. Attorney-General Baldwin.

All that certain parcel or tract of land situate, lying and being in the Township of Stamford, in the County of Welland, in Canada West, being composed of all the Reserve along the top of the bank of the River Niagara in front of lots number 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92 of the said Township, and containing such quantities of land as may be found reserved in the Crown Patents of the grants of the before-mentioned lots, or may be otherwise known as follows, that is to say: Commencing 10 in the northern limit of lot number 1, at the distance of one chain from the top of the bank of the River Niagara, then southerly, parallel to, and always at the distance of one chain from the said top of the bank, to the limit between lots number 92 and 93, then east, along the said limit, to the water's edge of the River Niagara, then northerly, along the water's edge, to the northern limit of lot number 1 aforesaid, then west, along the said northern limit of lot number one, to the place of beginning.

And also all that certain other parcel or tract of land situate, lying and being in the said Township of Stamford, in the County aforesaid, being composed of all the Reserve along the top of the bank of the said River Niagara in front of lots numbers 145, 159, 160, 174, 175, 190 and part of 191 of the said Township, containing such 20 quantities of land as may be found reserved in the Crown Patents of the grants of the before mentioned lots, or may be otherwise known as follows, that is to say: Commencing in the limit between lots numbers 144 and 145, at the distance of one chain from the top of the bank of the River Niagara, then southerly and easterly, parallel to and always at the distance of one chain from the said top of the bank, to a line produced north from the west boundary of lot number 192, then north, along the aforesaid line to the water's edge of the River Niagara, then westerly and southerly, along the water's edge, to the limit between lots numbers 144 and 145, then west, along the said limit between lots numbers 144 and 145 to the place of beginning.

*They mean the  
upper line.*

H. G. WULFF,

*Lieut.-Col. C. R. Eng.*

## No. 90A.

PAPERS RELATING TO THE INCORPORATION OF THE TOLL ROAD  
COMPANY—TABLE ROCK TO SUSPENSION BRIDGE.

Be it remembered that on the eighteenth day of March, in the year of Our Lord one thousand eight hundred and fifty-one, we the undersigned shareholders met at St. Catharines, in the County of Lincoln, in the Province of Canada, and resolved to

This again creates a difficulty as they  
leave the question of which  
Bank in doubt

*12 Dec 84*

form ourselves into a company to be called the St. Catharines, Thorold and Suspension Bridge Road Company, according to the provisions of a certain Act of Parliament of this Province, entitled "An Act to authorize the formation of Joint Stock Companies for the construction of Roads and other works in Upper Canada," for the purpose of constructing a macadamized and plank road from the Niagara Falls Suspension Bridge, in the Township of Stamford, by the way of the Village of Thorold, to the Town of St. Catharines, in the Township of Grantham.

And we do hereby declare that the Capital Stock of the said company shall be three thousand pounds, to be divided into six hundred shares, at the price or sum of 10 five pounds each, and we the undersigned shareholders do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon according to the provisions of the said in part recited Act, and of the rules, regulations, resolutions, and by-laws of the said company to be made or passed in that behalf, and we do hereby nominate William H. Merritt, William B. Hendershot, John L. Ranney, Samuel Zimmerman, and John Oswald to be the first directors of said company.

	NAMES.	NO. OF SHARES.	AMOUNT.
			£. s. d.
20	(Sgd.) Wm. H. Merritt.....	25	125 0 0
	" John Brown.....	35	175 0 0
	" John L. Ranney.....	10	50 0 0
	" D. Curtis Haynes.....	10	50 0 0
	" Wm. Eccles.....	5	25 0 0
	" Geo. Rykert.....	5	25 0 0
	" D. Sweeney.....	2	10 0 0
	" P. Congle.....	1	5 0 0
	" G. Forbes .....	2	10 0 0
	" Owen X Clifford*..... mark.	2	10 0 0
	" John Page .....	5	25 0 0
30	" Wm. B. Hendershot, (Reeve, Thorold Vil- lage) .....	150	750 0 0
	" Godfrey Wand.....	4	20 0 0
	" W. S. Copeland & Co.....	5	25 0 0
	" M. L. Goodman.....	4	20 0 0
	" James Taylor.....	5	25 0 0
	" Holmes & Greenwood .....	4	20 0 0
	" Samuel Zimmerman.....	5	25 0 0
	" Joseph A. Woodruff.....	5	25 0 0
40	" Jacob Turner, by his Attorney, W. H. Merritt, jr.....	5	25 0 0



	NAMES.		AMOUNT.	
		£.	s.	d.
(Sgd.)	R. M. Clement.....	10	50	0 0
"	Thomas Towers.....	25	125	0 0
"	James Oswald.....	50	250	0 0
"	James Brown.....	144	720	0 0
"	John Lemon .....	5	25	0 0
"	C. Yale.....	5	25	0 0
"	Boomer Bros.....	7	35	0 0
10	Thomas X Brown* .....	1	5	0 0
	mark.			
"	James Dougan.....	1	5	0 0
"	R. M. Clement .....	5	25	0 0
"	Hiram Slate.....	13	65	0 0
		600	£3,000	0 0

\*Witness—H. SLATE.

This certifies that I have received of the above mentioned stockholders in the St. Catharines and Thorold and Suspension Bridge Road Company, the sum of one hundred and eighty pounds, being six per cent. on six hundred shares of stock in the 20 said company.

HIRAM SLATE,

*Secretary and Treasurer,*

*St. C., T. & S. B. R. Co.*

ST. CATHARINES,

May 2nd, 1851.

Filed pursuant to statute, the 2nd May, 1851.

JOHN POWELL, *Registrar,*

*Lincoln and Welland.*

I hereby certify that the within is a true copy of the contents of the Subscription Book of the St. Catharines, Thorold and Suspension Bridge Road Company, 30 filed pursuant to statute, 2nd May, 1851.

LINCOLN REGISTRY OFFICE, 14th April, 1886.

H. K. WOODRUFF,

*Deputy Registrar.*

TO THE MUNICIPALITY OF THE TOWNSHIP OF STAMFORD.

The St. Catharines, Thorold and Suspension Bridge Road Company being desirous of extending their road from the Suspension Bridge to Table Rock along the line of the present River Road, beg leave to apply to the Municipality of the Township of Stamford for authority to macadamize the River Road between the above points, and to erect one or two toll-gates thereon. They would also beg to propose 40 that the Council of Stamford should take stock in their Company to the extent of one thousand pounds, which will be the cost of the proposed extension.

7 August 1852 - the Road Co  
applied to the Township of Stamford  
for authority - which was approved  
on 21 Augt 1852 page 317 - and  
the approval was rescinded the next day  
but permission was given to another Co - on  
20th 1852 to construct the road p 318  
eventually this company was absorbed  
in the S & Catherline Company p 321

14 & 15 V. 12<sup>9</sup>  
Passed 30  
August 1851

The accompanying statement will show that the prospects for a return on the whole stock are of the most favourable character.

WM. HAMILTON MERRITT,

*President, St. C., T. & S. B. R. Co.*

7th August, 1852.

COPY OF A RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF THE ST. CATHARINES, THOROLD AND SUSPENSION BRIDGE ROAD COMPANY, THE 13TH DAY OF AUGUST, 1852.

The Directors of the St. Catharines, Thorold and Suspension Bridge Road Company being of opinion that it is desirable to extend the line of the St. Catharines, Thorold and Suspension Bridge Road from the Suspension Bridge along the line of the Niagara River to Table Rock, and permission thereto having been granted by the Municipality of the township of Stamford, on the 7th of August instant, upon application by the President of the Company :

It is Ordered and Resolved, That the above road shall be so extended as soon as the necessary stock is subscribed, and that such extension shall henceforth be considered as part and parcel of the original line, under the provisions of the 14-15 Vic. cap. 72. And further, it is hereby ordered and resolved, That the capital stock of the Company shall be increased by the sum of two thousand five hundred pounds, or five hundred shares, which are hereby authorized to be subscribed and are to be called in, in the same manner, and under the same penalties, as are provided in respect of the original shares, or stock of the Company.

A True Copy.

(Sgd) WM. H. MERRITT

*President.*

(Sgd) HIRAM SLATE,

*Secy.*

Seal of S. C. T. & S. B. R.

SUBSCRIPTION LIST OF ADDITIONAL STOCK IN THE ST. CATHARINES, THOROLD AND SUSPENSION BRIDGE ROAD COMPANY, TAKEN UNDER THE AUTHORITY OF THE FOREGOING RESOLUTION.

	Names.	Number of Shares.	Amount.
30	Signed. Thos. C. Street, for Niagara Falls		
	Suspension Bridge Co.....	Seventy-five.....	£375
	E. S. Adams, Mayor, for the Municipality		
	of St. Catharines.....	One hundred.....	500
	Samuel P. Stokes, Trustee for the Niagara		
	Falls International Bridge Co.....	Seventy-five.....	375
	Wm. H. Merritt .....	Two hundred and fifty.....	1,250
	Total.....	Five hundred Shares.....	£2,500

Received, St. Catharines, October 6th, 1852, of the above mentioned shareholders, 40 the sum of one hundred and fifty pounds, being six per centum of the above £2,500



additional stock taken in the Capital Stock of the St. Catharines, Thorold and Suspension Bridge Road Company.

(Signed) HIRAM SLATE,

Filed pursuant to the Statute 8th October, 1852 Treasurer.

JOHN POWELL,

*Registrar, Lincoln.*

LINCOLN REGISTRY OFFICE,

April 14th, 1886.

I hereby certify that the within is a true copy of the Extended Charter St. C. T. & S. B. R. Co. Filed 8th October, 1852.

10

H. K. WOODRUFF,

*Deputy Registrar.*

EXTRACT OF MINUTES OF MEETING OF MUNICIPAL COUNCIL, TOWNSHIP OF STAMFORD, HELD AUGUST 21ST, 1852.

" Letter from W. H. Merritt, Esq., soliciting this Council to allow the St. Catharines, Thorold and Suspension Bridge Macadamized Road Company to extend " the Road from the Suspension Bridge to the Table Rock—and moved by Mr. McGarry that the Township undertake the work, and moved by Mr. Pew seconded by " Mr. Thompson, that it is advisable to let the Company have the Road."

PROCEEDINGS OF THE MUNICIPAL COUNCIL FOR THE TOWNSHIP OF STAMFORD, HELD AT THE  
20 TOWN CLERK'S OFFICE PURSUANT TO ADJOURNMENT.

SATURDAY, August 28th, 1852.

The Council met at three o'clock P.M. Luke Carroll, Esq., town reeve, in the chair. Members present :—Messrs. Thompson, McGarry, Pew and Russell.

Minutes of last meeting read and amended, by Mr. Russell moving, seconded by Mr. McGarry, that the minutes of the last meeting respecting the St. Catharines & Thorold and Suspension Bridge Macadamized Road Company, with respect to the extension of said road from the Suspension Bridge to the Table Rock, be rescinded. Carried. And moved by Mr. McGarry, seconded by Mr. Russell, that the Township take the road and macadamize it from the Suspension Bridge to the Table Rock.  
30 Carried. Mr. Thompson voting with the mover.

I certify that the foregoing is a true copy, as appears on the Minute Book of the Township of Stamford.

From Clerk's Office, Drummondville, December, A.D. 1876.

JOHN A. ORCHARD,

*Clerk.*

PROCEEDINGS OF THE MUNICIPAL COUNCIL FOR THE TOWNSHIP OF STAMFORD, HELD AT THE  
TOWN CLERK'S OFFICE, PURSUANT TO ADJOURNMENT.

SATURDAY, October 2nd, 1852.

The Council met at four o'clock, P.M. Luke Carroll, Esq., Town Reeve, in the  
40 chair. Members present :—Messrs. Thompson, McGarry, Pew and Russell.



Minutes of last meeting read The Memorial of John McMicking and M. N. Corry asking leave of this Council to construct the road from Suspension Bridge along the river to the Table Rock read.

And moved by Mr. Russell, seconded by Mr. Pew, that the minute of this Council passed August 28th, 1852, respecting the township taking and macadamizing the road from the Suspension Bridge along the river to the Table Rock, and all matter appertaining thereto, be rescinded. Carried unanimously. And moved by Mr. Russell, seconded by Mr. Thompson, that the Memorial of John McMicking and M. N. Corry is approved and that permission is hereby given them as asked, for the purpose of constructing the road from the Suspension Bridge along the river to the Table Rock, and carried unanimously.

I certify that the foregoing is a true copy as approved on the Minute book of the Township of Stamford.

JOHN A. ORCHARD,  
*Clerk.*

From Clerk's Office, Drummondville, 7th December, A.D. 1876.

BE IT REMEMBERED, That on this twenty-seventh day of September, in the year of our Lord one thousand eight hundred and fifty-two,

We, the undersigned stockholders, met at the Whirlpool Hotel, in the Township 20 of Stamford, and County of Welland, in the Province of Canada, and

Resolved to form ourselves into a Company, to be called The Suspension Bridge and Table Rock Road Company, according to the provisions of a certain Act of Parliament of this Province passed in the twelfth year of Her Majesty's reign, intituled: "An Act to Authorize the formation of Joint Stock Companies, for the construction of Roads and other works in Upper Canada," for constructing a macadamized and gravelled road, commencing at the Elgin Suspension Bridge and terminating at the Table Rock near the Niagara Falls, and we do hereby declare that the capital stock of the said company shall be one thousand pounds, to be divided into two hundred shares at the price or sum of 30 five pounds each, and we the undersigned stock holders, do hereby agree to take and accept the number of shares set by us opposite to our respective signatures, and we do hereby agree to pay the calls thereon according to the provisions of the said in part recited Act, and of the rules, regulations, resolutions, and by-laws of the said Company to be made or passed in that behalf, and we do hereby nominate John McMicking of the Village of Stamford, in the County of Welland, Esquire, one of Her Majesty's Justices of the Peace for the said County, and Matthew Nixon Corry of the Township of Stamford, County of Welland, and Physician, Luke Carroll of said township, and county, reeve of the township of Stamford, and James McGarry of the same township and county, and William Russell of Drummondville, in the 40 same county, to be the first directors of the said company.

20 Oct 1852 Cured by Joseph  
of Stamford

	NAME.	NO. OF SHARES.	AMOUNT.
			£    s.    d.
10	Matthew N. Corry.....	20	100 0 0
	Thomas C. Street.....	20	100 0 0
	James McGarry .....	20	100 0 0
	John McMicking.....	10	50 0 0
	William Russell.....	20	100 0 0
	Luke Carroll .....	20	100 0 0
	William Lowell .....	10	50 0 0
	Richard Henley.....	10	50 0 0
	W. O. Buchanan.....	20	100 0 0
	George Bender .....	10	50 0 0
	Philip Bender.....	10	50 0 0
	John Malone.....	10	50 0 0
	S. Davis .....	10	50 0 0
	Thomas Barnett .....	10	50 0 0

## COUNTY OF WELLAND.

## To WIT:

John Evans of the Village of Drummondville, in the Township of Stamford,  
 20 County of Welland, and of the United Counties of Lincoln and Welland and Province  
 of Canada, innkeeper, maketh oath and saith.

That he saw Mathew N. Corry, James McGarry, John McMicking, Luke Carroll  
 and William Russell, the within named persons described in the annexed instru-  
 ment of writing, duly sign and deliver, each for himself, the annexed instrument  
 for the registry thereof, and that he, this deponent, is a subscribing witness to the  
 fact.

Sworn before me at Drummondville, in the  
 County of Welland, this eleventh day of } JOHN EVANS.  
 October, in the year of Our Lord, 1852. }

30      (Signed)     RICHARD HENLY,

*A Commissioner for taking affidavits, B.R.*

Filed in the Office of the Registrar of the County of Welland, the 13th day of  
 October, 1852, at 1 o'clock p.m.

(S'gd.)

D. D'EVERARDO,

*Registrar.*

Received from the stockholders of the Suspension Bridge and Table Rock Road  
 Company, a first instalment of six per cent for every share of the value of five pounds  
 to which each subscriber is entitled as appears by the following list, opposite to  
 each name, being the number of shares held by the individual, and the amount paid  
 40 on such shares.



	NAME.	NO. OF SHARES.	AMOUNT PAID.		
			£.	s.	d.
	John McMicking.....	10	3	0	0
	Luke Carroll.....	20	6	0	0
	William Russell.....	20	6	0	0
	James McGarry.....	20	6	0	0
	M. Nixon Corry.....	20	6	0	0
	Thomas C. Street.....	20	6	0	0
	W. O. Buchanan.....	20	6	0	0
10	William Lowell.....	10	3	0	0
	Richard Henly.....	10	3	0	0
	John Malone.....	10	3	0	0
	George Bender.....	10	3	0	0
	Philip Bender.....	10	3	0	0
	S. Davis.....	10	3	0	0
	Thomas Barnett.....	10	3	0	0

Witness,

(Sgd.) JOHN McMICKING,

*Treasurer.*

(Signed) M. N. CORRY.

I certify the foregoing contained in these sheets of paper to be a true copy of the 20 instruments of incorporation of the Suspension Bridge and Table Rock Road Company, and of the affidavit attached and endorsements thereon, as filed in this office, 13th October, 1852, and now remains of record.

J. C. PAGE,

*Deputy Registrar.*

Filed in the office of the Registrar of the County of Welland, the 13th day of October, 1852, at 1 o'clock p.m.

D. D'EVERARDO,

*Registrar.*

COPY OF A RESOLUTION PASSED BY THE DIRECTORS OF THE SAINT CATHARINES,  
THOROLD AND SUSPENSION BRIDGE ROAD COMPANY, AT A MEETING HELD AT  
THE ELGIN HOTEL, IN THE VILLAGE OF ELGIN, ON FRIDAY, THE THIRD DAY  
OF JUNE, 1853.

Resolved that a branch road be constructed, extending from the line of the company's road at the south-east corner of the Clifton Hotel, in the Township of Stamford, along the present travelled road in front of the Clifton Hotel, and the residence of Samuel Zimmerman, Esquire, to the station of the Erie and Ontario Railroad, a distance of about one quarter of a mile; and it is hereby declared that the said branch when completed, shall be incorporated with and form part of the said Saint Catharines, Thorold, and Suspension Bridge Road Company's Road, according to the provisions 40 of 14-15 Victoria, Cap. 122, Clause 2.

A true copy. (signed), WM. HAMILTON MERRITT, [Seal.]

*President St. C., T. & S. B. R. Co.*



I hereby certify that the within is a true copy of a resolution of St. Catharines' Thorold & S. B. R. Co. filed 16th June, 1853.

H. K. WOODRUFF,  
*Deputy Registrar.*

Lincoln Registry Office, 14th April, 1886.

W.M. H. MERRITT, Jr., Esq.,  
St. Catharines.

NIAGARA FALLS, July 28th, 1853.

MY DEAR SIR,—I have now arranged with all the shareholders in the Suspension Bridge and Table Rock Road Company, and have obtained a transfer of the whole of 10 their shares or interest in the stock and in the cost of the work performed by that company.

It amounts to £553.10, in the whole, which I have paid and for which I hold the certificate of the Secretary, of which I enclose you a copy, and I will thank you to send me a like certificate showing that I am entitled to a like amount of stock in the St. Catharines, Thorold and Suspension Bridge and Table Rock Co., on which I understand I shall be entitled to the like dividends and for the like period that any of the original shareholders are.

Your early attention to this will oblige.

Yours truly,

(Sgd.) THOMAS C. STREET.

20

A BY-LAW RELATING TO THE ST. CATHARINES, THOROLD AND SUSPENSION BRIDGE ROAD.

WHEREAS the present owners of Road formerly owned by the St. Catharines, Thorold and Suspension Bridge Road Company have agreed to sell and convey to the Corporation of the Township of Stamford all that part of the road of the said Company in the Township of Stamford, west of a point thirty chains west of the Portage Road leading from Queenston to the Village of Chippawa, and the said owners have agreed to remove all toll-gates on the said road on that part of the road lying and situate between the Towns of Thorold and Niagara Falls, and not to erect any toll or 30 check gates on such portion of the said road hereafter, and the Corporation of the Township of Stamford, in the County of Welland, have agreed to purchase, accept and assume all that portion of the said road so agreed to be sold and conveyed :

Be it therefore enacted by the said Corporation of the Township of Stamford, that the said Corporation do purchase, for the sum of one dollar, and assume as a Township Road, all that part of the road formerly owned by the said company in the said Township of Stamford which lies and is situate west of a point thirty chains west of the Portage Road aforesaid, and that from and after the time of the adoption of this By-Law, the Corporation of the said Township and its Council shall have and exercise the same jurisdiction over the same, and shall be liable to the same duties as such 40 Council has or is subject to in respect of the Public Roads within its jurisdiction.

Passed and adopted this 28th day of October, A.D. 1852.

F. A. HUTT, *Clerk.*  
80

ANSON GARNER, *Reeve.*



**No. 91.**

*1 October 1852*

SURRENDER FROM THE ORDNANCE OFFICERS TO HER MAJESTY OF PORTIONS OF THE RESERVE IN THE TOWNSHIP OF STAMFORD, ACCEPTED BY ORDER IN COUNCIL 9TH DEC., 1852, PART OF EX. 94.

To all to whom these presents shall come.

The Principal Officers of Her Majesty's Ordnance, by James S. Elliott, Esquire, Her Majesty's Ordnance Storekeeper in Canada, duly authorized and empowered in that behalf—according to the form of the Statute in such case made and provided:—Send Greeting.

- 10 Whereas by and under the authority of an Act of the Provincial Parliament of Canada, passed in the seventh year of the reign of Her Majesty Queen Victoria, chaptered seven, and intituled "An Act for vesting in the Principal Officers of Her Majesty's Ordnance the estates and property therein described, for granting certain powers to the said Officers, and for other purposes therein mentioned," the lands, tenements and hereditaments hereinafter mentioned and described were, amongst others, conveyed to, and vested in, the said Principal Officers for the time being, in trust for Her Majesty, her heirs and successors, with the powers granted and subject to the provisions made in the said Act of Parliament in that behalf; And whereas by the said Act it is amongst other things in effect enacted, that it shall be lawful for the said Principal Officers to sell, exchange or in any manner to dispose of any lands or other real property vested in them by virtue of the said Act, or any estate or interest therein so vested in them, either by public auction or private contract, or to convey, surrender assign, or make over, grant, demise or deliver the same (as the case may require) to any party willing to take the same in exchange or otherwise, and also to do any other matter or thing in relation to any such lands or other real property, which shall by the said Principal Officers be deemed beneficial for the public service, and conducive to the better management and use of the property thereby vested in them, which might be done by any person having an estate or interest in the same of the same nature as shall be vested in, or held by, the said Principal Officers in trust as aforesaid;
- 30 and whereas by the said Act it is also amongst other things in effect enacted, that it shall and may be lawful for any two or more of the said Principal Officers to exercise and execute all powers, authorities and duties, and to perform, do and execute all acts, deeds, matters and things appertaining to their office which by virtue of the said Act, and by law, the said Principal Officers may exercise or execute, perform and do, and that the same shall be as valid and effectual, to all intents and purposes, as if exercised, executed, performed and done by all the said Principal Officers; and that it shall also be lawful for any two or more of the said Principal Officers, and they are by the said Act empowered, from time to time and as occasion may require, to authorize and empower any person or persons, or any officer or officers, by his or their 40 name, or title of office, to exercise and execute all, or any, of the powers, authorities and



duties, or to perform and do and execute, any acts, deeds, matters and things which by virtue of the said Act the said Principal Officers may exercise, execute, perform or do, as validly and effectually as the said Principal Officers might exercise, execute, perform and do the same and to revoke such authority at pleasure. And such authority shall, notwithstanding the death, resignation, or removal from office of the Principal Officers who shall have given the same, remain in force as if given by the Principal Officers for the time then being, until it shall be revoked by the Principal Officers for the time being, or any two of them ; And whereas the said James S. Elliott, Her Majesty's Ordnance Storekeeper in Canada, hath, by an instrument bearing date the 10 second day of August, 1844, under the hand seal of two of the said Principal Officers, been duly authorized and empowered to exercise and execute the powers and authorities in the said Principal Officers vested, amongst other things as far as regards the granting, bargaining, selling, surrendering, releasing, quitting claim, enfeoffing, conveying and confirming of all or any of the lands, trusts, houses or premises under or by virtue of the said Act of Parliament vested in the said Principal Officers, and which it may be expedient or necessary to grant, bargain, sell, surrender, release, quit claim, enfeoff, convey or confirm to Her Majesty, her heirs or successors, or to any other person or persons, bodies politic or corporate whomsoever ; And whereas such authority hath not been in any way annulled or revoked by the said Principal Officers, 20 any two or more of them, but remains in full force virtue and effect. And whereas the said lands, tenements, hereditaments and premises hereinafter described are not now required and are not likely to be required by the said Principal Officers for the purposes of defence ; and it is deemed most for the public service that the same should be re-vested in the Crown, for the public purposes of the province, as the other public lands thereof, and the same, with the concurrence of the Lieutenant-General commanding Her Majesty's Forces in this province for the time being, has been accordingly agreed to be surrendered to and re-vested in Her Majesty accordingly. Now therefore these presents witness, that for the consideration aforesaid, and also for and in consideration of the sum of five shillings of lawful money of Canada, by Her 30 Majesty's Receiver-General for the Province of Canada, out of Her Majesty's Treasury to the said Principal Officers in hand paid at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged ; They the said Principal Officers by such Ordnance Storekeeper as aforesaid, have granted, bargained, sold, surrendered, released, quitted claim, enfeoffed, conveyed and confirmed, and by these presents do, by the said Ordnance Storekeeper aforesaid, grant, bargain, sell, surrender, release, quit claim, enfeoff, convey and confirm unto Her Majesty, all and singular those lands, tenements, hereditaments and premises hereinafter mentioned and described, that is to say :— All that certain parcel or tract of land situate, lying and being in the township of Stamford, in the County of Welland, in Upper Canada, being composed of all the reserve 40 along the top of the bank of the River Niagara in front of lots numbers one, twenty, twenty-one, forty, forty-one, fifty-eight, fifty-nine, seventy-four, seventy-five and ninety-

Lands are not now required and are not likely to  
be required by the said Principal Officer for  
the purposes of defence

## Description

two, of the said township, and containing by admeasurement      acres of land, be the same more or less, and which said parcel or tract of land is butted and bounded or may be otherwise known as follows, that is to say : Commencing in the northern limit of lot number one, at the distance of one chain from the top of the bank of the River Niagara ; then southerly, parallel to and always at the distance of one chain from the said top of the bank, to the limit between lots numbers ninety-two and ninety-three ; then east, along the said limit, to the water's edge of the River Niagara ; then northerly, along the water's edge, to the northern limit of lot number one aforesaid ; then west, along the said northern limit of lot number one, to the place of beginning.

10     Also all that certain other parcel or tract of land situate, lying and being in the said Township of Stamford, in the county aforesaid, being composed of all the Reserve along the top of the bank of the said River Niagara, in front of lots numbers one hundred and forty-five, one hundred and fifty-nine, one hundred and sixty, one hundred and seventy-four, one hundred and seventy-five, one hundred and ninety and part of one hundred and ninety-one, of the said township, containing such quantities of land as may be found reserved in the Crown Patents of the grants of the before mentioned lots, or may be otherwise known as follows: Commencing in the limit between lots one hundred and forty-four and one hundred and forty-five, at the distance of one chain from the top of the bank of the River Niagara, then south-  
20 erly and easterly, parallel to and always at the distance of one chain from the said top of the bank, to a line produced north from the west boundary of lot number one hundred and ninety-two, then north along the aforesaid line to the water's edge of the River Niagara, then westerly and southerly, along the water's edge, to the limit between lots numbers one hundred and forty-four and one hundred and forty-five, then west, along the said limit, between lots one hundred and forty-four and one hundred and forty-five, to the place of beginning.

Together with all and singular the houses, outhouses, buildings, woods, ways, watercourses, easements, privileges, profits, hereditaments and appurtenances whatsoever to the said parcels or tracts of land, tenements, hereditaments and premises, or  
30 either of them, belonging or in anywise appertaining, or therewith used, or enjoyed, or known, or taken, as part or parcel thereof, or as belonging thereto, or to any part thereof, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, trust, claim, property and demand, both at law and in equity, of them the said Principal Officers of, in, to or out of the same or any part thereof, to have and to hold the same lands, tenements, hereditaments and premises hereby conveyed and surrendered, or mentioned, or intended so to be, with their and every of their appurtenances, unto Her Majesty, her heirs and successors for ever.

Provided always, nevertheless, that neither this conveyance, surrender and re-  
40 lease, nor the words grant, bargain, sell, surrender, release, quit claim, enfeoff, con-

*Wm. D. Jr.*

The Surrender 1 October 1852

see de Waldwicks  
description &c 306

The difficulty of which bank still  
continues

such quantities of acids as  
may be found reserved  
on the Crown Patents - See p 313  
p 311

3 and by looking at plan  
No 8 prepared by the Ordnance  
it will be seen what they meant  
to surrender as follows  
below?

vey and confirm, or any of them, hereinbefore used by the said Principal Officers, nor anything herein contained on their part shall extend or be deemed or construed, either at law or in equity, to extend to either an expressed or implied warranty or covenant for the title to the said lands, tenements, hereditaments and premises hereby surrendered, released and conveyed, or of their right, either at law or in equity, to surrender, release, convey, sell or dispose of the same or any part thereof; these presents being expressly intended to operate merely to pass the estate or interest in or lien upon the said lands, tenements, hereditaments and premises which they the said Principal Officers now have, or possibly may have, upon the same, either under 10 or by virtue of the said Act of Parliament, or otherwise howsoever, anything herein contained to the contrary thereof in any wise notwithstanding.

In witness whereof, the said Principal Officers, by the said James S. Elliott, Her Majesty's Ordnance Storekeeper, so duly authorized and empowered in this behalf as aforesaid, have hereunto set their hands and seals, at Headquarters, at the City of Montreal, in the Province of Canada, this first day of October, in the year of Our Lord one thousand eight hundred and fifty-two, and in the sixteenth year of Her Majesty's reign.

J. S. ELLIOTT. [Seal.]

Signed, sealed and delivered in  
20 presence of }  
EDW. WILGRISS. }

## No. 92.

REPORT OF LIEUTENANT-COL. WULFF RESPECTING MEMORIAL FROM  
GEORGE HARDISON ASKING LEAVE TO RUN A RAILWAY LINE  
ACROSS THE MILITARY RESERVE AT FORT ERIE, AND NOTE OF  
COMMANDER OF FORCES THEREON.

ROYAL ENGINEER HEADQUARTERS OFFICE, }  
Montreal, 21st Feb., 1852. }

SIR,—In submitting for the opinion of the Lt.-General Commanding the enclosed  
30 memorial from Mr. George Hardison, on behalf of the Brantford and Buffalo Rail-  
road Company to run their line across the Military Reserve at Fort Erie, and to  
establish the eastern terminus on the Chain Reserve on the Niagara River, as shown  
on the accompanying plans, I have the honour to report for His Excellency's con-  
sideration, that a portion of the line, seven hundred and fifty yards in length, and

No 92 is no support to the claim that  
the Chain Reserve is Ordnance property  
the proposal is to run the line "across the  
"Military Reserve" - and to割去  
the territories on the Chain reserve to  
which Dr Wulff sees no objection. See next  
page

sixty-six feet in width, will pass across the land which it is considered desirable should be retained exclusively for the future wants of the Ordnance Department, and therefore cannot be permanently alienated, but I consider the company may be allowed to establish their railway thereon on the same terms as permission has been given for similar occupation at St. John, without the payment of an annual rental: power of resumption, and the line of the track to be laid out under the superintendence of an officer of Engineers.

I see also no objection to the Chain reserve being in like manner occupied as a terminus.

- 10 With respect to the remainder of the land which the company has applied for, as it is comprised in that part of the reserve which it is proposed to give over for the settlement of pensioners, the application will be, I presume, decided by the Secretary at War.

I have the honour to be, Sir,

Your most obedient humble servant,

H. G. WULFF,

*Lt.-Col., Com. Royal Engineer.*

THE MILITARY SECRETARY, Headquarters.

P. S.—It is requested that the enclosure may be returned.

20 [Endorsed.]

R. 5647,

Commanding Royal Engineer,

Montreal, 21 Feb., 1852.

Received, 21.

Answered, 24.

Acquaint Lt.-Col. Wulff that I am not aware of any other objections to the suggestions of the Commanding Royal Engineer than the instructions lately received from the Secretary of State through the Governor-General, relative to the military reserves required for the location of military pensioners.

30

WILLIAM R.

MEM.—*It is understood that "William R." is the signature of Lieut.-Gen. Sir Wm. Rowan, Commander of the Forces.*



**No. 93.**

ORDER IN COUNCIL DEFINING THE LOCATION AND AREA OF THE  
MILITARY RESERVATION AT TURKEY POINT ON LAKE ERIE.

GOVERNMENT HOUSE, QUEBEC,  
WEDNESDAY, 10th March, 1852.

**PRESENT :**

His Excellency The Governor-General.

The Honourable Etienne P. Taché.

" " " " "	James Morris. Augustin N. Morin. René E. Caron. Malcolm Cameron. John Rolph. Lewis T. Drummond. William B. Richards. John Young.
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His Excellency laid before the Board the undermentioned reports of a Committee of Council, which, being read, were approved and ordered to be entered.

To His Excellency the Right Honourable James, Earl of Elgin and Kincardine, K.T.,  
20 Captain-General and Governor-in-Chief in and over the Provinces of Canada,  
Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice Admiral  
of the same, &c., &c., &c., in Council.

10th March, 1852. Report of a Committee of the Executive Council on matters  
Approved—E. & K. referred to their consideration by Your Excellency's command.

**PRESENT :**

The Honourable Mr. Cameron in the Chair.

" " " "	Mr. Morin. Mr. Rolph. Mr. Richards.
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*On Land Applications.*

30

MAY IT PLEASE YOUR EXCELLENCY,—

On a communication from the Respective Officers of the Board of Ordnance, transmitting a sketch upon which is laid down the limits which they desire may be regarded as those of the Military Reserve at Turkey Point, on Lake Erie, and which they state "it is necessary to retain for military purposes," and they express the opinion that "the title to which should not be diverted from the (Ordnance) Department;"

*The Earl of Elgin*

10



On this communication the Commissioner of Crown Lands reports as follows, viz.:—"It will be observed that outlines marked on the sketch in question embrace the fronts of the lots from number seven to number fourteen, both inclusive, in the broken front range of the Township of Charlotteville, and they comprise about twelve hundred acres. Upon number fourteen an old work, known as Fort Norfolk, was constructed.

"The Ordnance Vesting Act, 7th Victoria, chap. 11, assured to the Principal Officers of Her Majesty's Ordnance the right and possession of all military reservations which had been set apart in Upper Canada. In the schedule attached thereto Turkey Point is enumerated as one of the reservations vested by the Act in the said Principal Officers.

"The outlines of this reservation have, however, at no time been defined, and as those marked down upon the Ordnance sketch placed herewith appeared to include about thirty-five acres of cleared land, it seems desirable that the Government should decide as to whether it will assent to the claim as now preferred by the Ordnance. It is believed that at present Fort Norfolk is not occupied as a military station; and, further, twelve hundred acres of land is a larger quantity than has usually been set apart at any one post. There would probably be no objection to a permanent appropriation being made of the broken fronts of lots numbers thirteen and fourteen as marked off on the sketch referred to, and of such portion of Turkey Point as may be most eligible as a military position, to comprehend, including the marsh adjacent, not more than three hundred acres."

The Committee recommend the above suggestion of the Commissioner of Crown Lands for Your Excellency's approval, and that the Crown Lands Department do communicate the substance of this minute to the Respective Officers of the Board of Ordnance, with a view to any further representation they may desire to make.

(*Land Book "F," p. 403.*)

## No. 94.

CORRESPONDENCE OF MR. T. C. STREET AND MR. W. H. MERRITT  
30 AND OTHERS WITH ORDNANCE OFFICERS AND COMMISSIONER OF CROWN LANDS, AND PROCEEDINGS IN COUNCIL, REGARDING CONSTRUCTION OF MACADAMIZED ROAD AND COLLECTION OF TOLLS OVER LANDS SURRENDERED AND THOSE CLAIMED TO BE RETAINED BY THE ORDNANCE DEPARTMENT.

HOUSE OF ASSEMBLY, October 2, 1852.

DEAR SIR,—I am informed by the Honourable W. H. Merritt that he has addressed the Ordnance, through you, to be permitted, in conjunction with the St. Catharines,



Thorold and Niagara Falls Suspension Bridge Company, to construct a road from the Suspension Bridge, along the chain of reservation on the bank of the river, to the Table Rock, asserting that the property belongs to the Ordnance and not to the Crown, or in other words to the Municipal Authority of Stamford, in which it lies. It is our duty to inform you that Mr. Merritt, treating this property heretofore as the property of the Township, applied to the Municipal Council for leave to construct the road in question, which that body refused, and objected to allow persons living out of the Township to make it; but desirous to see the work accomplished they authorized the formation of a Joint Stock Co., with leave to take stone and gravel on the 10 highway to do it, and such company is now formed and will no doubt this Fall commence and complete the road, which is only two miles long. Now, I respectfully submit whether it would be proper for the Government to interfere with the municipal body, and in opposition to their wishes authorize another company to come in and overturn what they have done and construct in their own Township a work which they are fully able and willing to construct themselves. I hope you will not sanction Mr. Merritt's application, for it will give great dissatisfaction in that part of my County to which I have alluded, and moreover it is a grave question whether the Ordnance have any right to, or control of, the greater portion of the land or reservation applied for. I believe it to be the property of the Crown.

20

Yours, &amp;c.,

HON. A. N. MORIN.

THOMAS C. STREET.

CROWN LANDS DEPARTMENT,

QUEBEC, 6th October, 1852.

The Hon'ble WILLIAM H. MERRITT,  
House of Assembly.

SIR,—I have the honour to acquaint you, on reference to your letter of the 2nd instant, in which you enquire "whether the one chain on the bank of the River Niagara, leading from the Suspension Bridge to the Table Rock, is a road allowance under the Municipal Council, or a Military Reserve under the Ordnance," that the 30 Land Department, from the earliest period, appears to have regarded it as a Military Reserve.

Upon referring to a Return dated 29th April, 1830, furnished to the Government of Upper Canada by Mr. Acting Surveyor William Chewett, as exhibiting the Military Reservations in that Province, it is perceived that the Chain Reservation is included among them. It appears by that Schedule that the Military Reserves at Fort Erie and Queenston were set apart soon after the peace of 1783, and it is probable that the Chain Reservation was made at about the same period.

Mr. Chewett having been an officer of the Surveyor-General's Office of Upper Canada from the time of its organization, having joined it from the same service

only surveyed in 1787-1788

under the Province of Quebec, may probably be regarded not only as excellent authority, but as the best authority in regard to Departmental transactions of that early period.

JOHN ROLPH.

Secretary's Office, 7th October, 1852.

THOS. C. STREET, Esq., M.P.P.

SIR,—I have the honour to acknowledge the receipt of your letter of the 2nd inst., and to acquaint you, in reply, that no communication has been received at this Department from the Honourable Mr. Merritt on the subject therein alluded to.

10

I have, &c.,

E. A. MEREDITH.

Ent'd. E. A.M.

QUEBEC, October 30th, 1852.

SIR,—I have the honour to inform you that the Township of Stamford have, by their Council, authorized the construction of a macadamized road from the Suspension Bridge to the Table Rock—a work much needed—but that they are likely to be interfered with by a company who have constructed a road from St. Catharines to Suspension Bridge, claiming to have the consent of the Ordnance, who maintained that the land is vested in them, on which the Stamford Company are now employed.

20 The Reeve of Stamford informs me that, while he and his company are constructing their road at one end, the other company threaten to commence the same work at the other end. I hope that the Government will so far uphold the opinions and deliberations of the Township Council as to refuse to give any assent to the St. Catharines Company to proceed with their work in the event of its being asked for, and also so far interfere with the Ordnance Department as to request them not to allow to the St. Catharines Company the privilege sought for, or if already granted, that they may be requested to withdraw their consent.

Yours, &c.,

Hon. A. N. MORIN.

THOMAS C. STREET.

30 I omitted to mention that the Ordnance are now, I believe, prepared to transfer their right to the Government, therefore that the right of the Government to interfere may, without prejudice to the Ordnance, be interposed.

HOUSE OF ASSEMBLY, November 2nd, 1852.

SIR,—In reference to my note of Saturday last, I have now to inform you that the St. Catharines Road Company have notified the Municipal Council of Stamford that they have obtained permission from the Board of Ordnance to construct a road from the Suspension Bridge to the Table Rock, and that they will in a few days commence the work, while the same object is now being accomplished by the Company authorized by the Township Council who are now proceeding with the road.



I really trust that the Government will see the propriety of interfering and stopping the St. Catharines Company, who are acting in defiance of the regularly constituted authority of the Township.

Yours, &c.,

THOMAS C. STREET.

Hon. A. N. MORIN.

Stamford  
Municipality. }

Passed November 2nd, 1852.

10 WHEREAS PERMISSION having been granted on the second day of October, in the year of our Lord one thousand eight hundred and fifty-two, by the Municipal Council of the Township of Stamford, to a joint stock company, under the title of the Suspension Bridge and Table Rock Road Company, to macadamize the road along the river from the Suspension Bridge to the Niagara Falls, situated in the Township of Stamford, County of Welland, and Province of Canada; and whereas it is desirable that such work should be constructed in a good and substantial manner, and to effect this object, it is requisite that the said Company should have and possess complete and full power in and over said road, Be it therefore enacted by the Municipal Council of the Township of Stamford, in Council assembled, and it is hereby enacted 20 by the authority of the same, that all the right, title and interest of this Council in or to the said road leading from the Suspension Bridge along the river to the Niagara Falls shall be and are hereby transferred and made over to the said Suspension Bridge and Table Rock Road Company.

And be it further enacted that when the said road shall have been completed and approved of by the Municipal Council of the Township of Stamford, the said Company shall be and are hereby authorized to erect toll houses and place toll gates thereon and to levy and collect tolls for the use and benefit of the said Company. Provided always that the said road shall be kept in a good and proper state of repair.

And be it enacted that nothing in this by-law shall extend, or be construed to 30 extend, to grant any power or authority to interfere with any right or privilege which may be claimed by Her Majesty's Ordnance for Military purposes, or which may be reserved by the Provincial Government for any object whatever.

LUKE CARROLL,

*Town Reeve.*

RICHARD HENLY,  
*Township Clerk.*

SECRETARY'S OFFICE, 4th November, 1852.

THOMAS C. STREET, Esq., M.P.

SIR,—I have the honour to acknowledge the receipt of your letters, dated respectively 30th ult. and 2nd inst., praying the Government to prevent the St. Catharines Road Company from constructing a road from the Suspension Bridge on the Niagara



River to the Table Rock, and am to inform you that your several communications on the subject have been transferred to the Commissioner of Crown Lands, through whose Department subjects of this nature are brought under the consideration of the Government.

I am, &c.,

E. A. MEREDITH.

QUEBEC, Nov. 4, 1852.

SIR.—With reference to the subject of my application to the Governor in Council for leave to the Township Council of Stamford to construct a maeadamized road from the Suspension Bridge to the Table Rock along the chain of reserve at the top of the precipice, and which has been referred to your Department for your report, I beg leave to request the favor of your addressing the Board of Ordnance to know when they will be prepared to make over to the Crown the land in question, about which a treaty has long been going on, and also to ascertain whether they have, pending negotiations with the Government, and very recently, granted any permission to any person or company to construct a road at the place indicated, and advise me of the result.

Yours, &c.,

THOMAS C. STREET.

20 Hon. Jno. Rolph.

*(Endorsement on the preceding.)*

THOS. C. STREET, QUEBEC, 4th November.

Relative to a macadamized road to be constructed by Township of Stamford.

3025.

Thos. C. Street, M.P. for Township Council of Stamford.

Quebec, 4.23 Nov., 1852. On subject of application made for leave to construct macadamized road.

Ref. B. 3 No. 248.

OFFICE OF ORDNANCE,

MONTREAL, 8th November, 1852.

SIR.—With reference to your letter of the 2nd instant requesting information in regard to the construction of a macadamized road along the Chain Reservation near



the Falls of Niagara, I beg to acquaint you that no authority of the nature you allude to has been granted by this Department, and that the deed of surrender has been executed, and will be forwarded by this post to the Crown Land Department for the property in question.

I have the honour to be, Sir,

Your most obedient servant,

J. S. ELLIOTT,

*O. S. Hd. Qrs. Canada.*

— — — STREET, Esq.,  
10 House of Assembly, Quebec.

OFFICE OF ORDNANCE,

MONTREAL, 10th Nov., 1852.

SIR,—With reference to your letter of the 6th instant, I have the honor to annex a copy of the communication which the Respective Officers addressed to you at Quebec, on the 8th instant, in answer to your inquiries regarding the Chain Reservation at the Falls of Niagara.

I have the honor to be, Sir,

Your most obedient humble servant,

J. S. ELLIOTT,

*O. S.*

20 — — — STREET, Esq., M.P.P.  
Chippawa, Canada West.

[*Enclosure.*]

OFFICE OF ORDNANCE,

MONTREAL, 8th Nov., 1852.

SIR,—With reference to your letter of the 2nd inst., requesting information in regard to the construction of a macadamized road along the chain reservation near the Falls of Niagara, I beg to acquaint you that no authority of the nature you allude to has been granted by the Department, and that the deed of surrender has been executed, and will be forwarded by this post to the Crown Land Department for the property in question.

I have the honor to be, Sir,

Your most obedient servant,

J. S. ELLIOTT,

*O. S. Hd. Q., Canada.*

— — — STREET, Esq.,  
House of Assembly, Quebec.



QUEBEC, Nov. 9th, 1852.

SIR,—I have the honour to enclose a letter from the Board of Ordnance for your information, relative to the Chain Reserve along Niagara River near the Falls, and I have further to request that the Government will be pleased to authorize the Township Council of Stamford, within whose jurisdiction the reserve lies, to construct a macadamized Road from the Suspension Bridge to the Table Rock, or to enable them to grant permission to a company to do so ; a work which is much needed, and ought to be proceeded with at once, so an early consideration of the matter will be a great favour to,

10

Yours &c.,

THOMAS C. STREET.

Honourable COMMISSIONER OF CROWN LANDS.

[*Endorsement.*]

2876.

THOMAS C. STREET, M. P., Quebec, 9th  
and 10th November, 1852. Respecting  
Chain Reservation along the Niagara  
River. L. 2863, Ref. B. 3, No. 243.

QUEBEC, Nov. 9th, 1852.

20 SIR,—Since addressing you this morning on the subject of the reserve near the Falls, I have learned that Mr. W. H. Merritt, Junior, as President of the St. Catharines & Suspension Bridge Plank Road Co., has applied for permission to make a road over the property with regard to which I have applied for a similar privilege for the Township Council of Stamford.

It is my duty to inform you that the same company, through Mr. Merritt, Junior, made application some time ago to the Township Council for leave to construct the said road, but which they declined ; and the council authorized therefore another company to make the said road, and that the company so authorized by the council are now busily engaged in constructing the said road, and if not interfered with, 30 will soon have it completed in a satisfactory manner ; I therefore trust that the Government will not entertain the application of the St. Catharines Company, but will at once confirm the action of the Township Council in regard to said road, an action which I am instructed by them, as their representative, to urge on the favourable notice of the Government.

Yours, &c.,

THOMAS C. STREET.

HON. JNO. ROLPH,  
Commissioner Crown Lands.



[*Endorsement.*]

No. 1001, S. 7, No. 16.

Secretary's Office, C. W., 1852.

THOS. C. STREET, M.P.P., 7/4 October.

On the subject of the application to the Ordnance Department made by the Hon. W. H. Merritt, for the construction of a road from the Suspension Bridge to the Table Rock, Niagara Falls.

10 S. O. answered 7 October, ref. B. 3, No. 239 S.

Further letter from Mr. Street, dated 30th October, (received 2 Nov.) and also of the 2/3 Nov.

S. O. acknowledged 4 Nov. R. B. 27/57.

Secretary's Office 4 Nov. 52.

Transferred to the Commissioner of Crown Lands.

By command,

20 E. A. MEREDITH,

*Assist. Secretary.*

Canada S.

No. 294.

WAR OFFICE, 16th April, 1886.

SIR,—With reference to your letter dated 24th March, 1886, in which you request to be furnished with a copy of the authority under which the St. Catharines and Suspension Bridge Company were permitted to continue the construction of a road on the Chain Reservation near the Falls of Niagara River, Canada, I am directed by the Secretary of State for War, to inform you that the road was allowed to be made on the conditions recommended in a report from the Commanding Royal Engineer in Canada, dated 13th November, 1852, a copy of which is enclosed.

I have the honour to be, Sir,

Your obedient servant,

H. SCHAW,

P. L. S.

MR. F. C. BICKNELL,

Stamps and Stores Department,

Somerset House, W. C.



Copy E. 2033.

The Commanding Royal Engineer in Canada to the Inspector-General of Fortifications, forwarding an application from the St. Catharines, Thorold and Suspension Bridge Company, to extend their macadamized road along the Chain Reserve of the Niagara River, from the Suspension Bridge to the Falls.

No. 67.

ROYAL ENGINEER HEAD-QUARTER OFFICE,

MONTREAL, 13th November, 1852.

SIR,—In forwarding to you the enclosed application from the St. Catharines, 10 Thorold and Suspension Bridge Company, to extend their macadamized road along the Chain Reserve of the Niagara River, from the Suspension Bridge to the Falls, as shown in the accompanying plan, I have the honour to acquaint you, that, I see no objection to the proposed measure, to which the Lieutenant-General Commanding has notified his concurrence, on the understanding that the Ordnance reserve the right to resume possession at any time without notice—or to stop up any part of the road at their discretion.

A road along the Chain Reserve has been partly formed by the Suspension Bridge Company without authority, and without even an application to the Ordnance for permission to occupy their land; consequently I consider the interests of the Department will be preserved, and the public benefitted, by acceding to the present application from the St. Catharines Road Company.

The Chain Reserve proposed to be occupied by the road, contains about nine acres. Its intrinsic value is nothing, being mostly bare rock, and the property yields no present revenue.

I have, &c.,

M. DIXON,

*Colonel, Commanding Royal Engineer, Canada.*

Lieutenant-General

SIR JOHN F. BURGOYNE, G.C.B., &c., &c., &c.

30

OFFICE OF ORDNANCE, MONTREAL, 16th November, 1852.

SIR,—With reference to your application of the 28th September seeking permission for the St. Catharines, Thorold and Suspension Bridge Company to extend their macadamized road from the Upper Suspension Bridge over the Niagara River to the Falls, we have the honour to acquaint you that we have recommended to the Board of Ordnance that the privilege solicited may be granted to the company, on the understanding that the right be reserved to the Department of resuming possession at



any time without notice, or of stopping up any part of the road at discretion—And we shall not fail to make you acquainted with the Board's decision as soon as it is notified to us.

We have the honour to be, Sir,  
 Your most obedient humble servants,  
 M. DIXON,  
*Colonel, Commanding Royal Engineer.*  
 WILLIAM BELL,  
*Colonel, Commanding Royal Artillery.*  
 M. W. BLENKARNE.  
 J. S. ELLIOTT,  
 To W. H. MERRITT, Esq., M.P.P.      *O.S. Hd.-Q., Canada.*

10

ST. CATHARINES, 30th November, 1852.

SIR.—I have the honor to acknowledge the receipt of your reply to my application on behalf of the St. Catharines, Thorold and Suspension Bridge Road Company, to extend their macadamized road from the Upper Suspension Bridge to the Falls of Niagara on the Ordnance chain Reservation, and am authorized to state that the company will most readily assent to the conditions named in your letter, and that the directors feel exceedingly obliged for the early and favourable consideration bestowed upon their application, and further, that as stated by the Honourable W. H. Merritt, in his note of the 13th instant, to Captain Blankarne, the company has entered into possession of the Chain Reservation, and is under prosecuting the work.

Your obedient servant,

W. H. MERRITT,  
*Pres. St. C. T. Sus. B. R. Co.*

To M. DIXON, Col. Commanding Royal Engineers; WILLIAM BELL, Col. Commanding R. Artillery, M. W. BLENKARNE, J. S. ELLIOTT, O.S. Hd.-Q., Canada, Respective Officers of Her Majesty's Ordnance, Montreal.

26th November, 1852.

30 The Commissioner of Crown Lands has the honor to lay before His Excellency the Governor-General in Council the accompanying letter dated the 9th instant, from Thomas C. Street, Esquire, M.P. in which application is made that authority be given to the Township Council of Stamford to construct a macadamized road in that township from the Suspension Bridge to the Table Rock at the Falls of Niagara upon the Chain Reservation along the bank of the Niagara River.

An instrument to effect a surrender from the Principal Officers of Her Majesty's Ordnance of a certain portion of the reservation of one chain in width along the bank of the Niagara River is now before His Excellency in Council in order to the same being accepted. The surrender however comprehends but a limited portion of the



proposed line of road, namely, the part of the reservation in front of lots numbers 145 and 159.

The reservation extending from number 145 to lot number 92 has been retained by the Ordnance, and as the control of the lands which extends between the upper boundary of the first named lot, and the lower boundary of the last named lot upon the river bank is with that department, an application to the Respective Officers who represent the Ordnance Department would apparently be the proper course.

With reference to the reservation in front of lots numbers 145 and 159 it will be observed that in the report of the 12th instant transmitting the surrender herein-  
10 before alluded to, a suggestion is offered that it may be placed by lease under the County Council, and it will rest with His Excellency in Council to decide whether that body or the Township Council of Stamford would be most desirable to receive the charge of the property in question and arrange the conflicting plans, in regard to special privileges. In the event of a lease being determined upon, it might comprehend authority for the construction of the contemplated macadamized road upon such line as the County or Township Council, as the case may be, shall approve of.

JOHN ROLPH,  
*Crown Lands Department, Quebec.*

26th November, 1852.

20

[*Endorsement.*]

S. 7. No. 16.

Report from the Commissioner of Crown Lands on an application from Thomas C. Street, Esquire, relative to the reserve on the bank of the Niagara River, between the Suspension Bridge and Table Rock.

Referred to a committee of the Honourable Executive Council.

By Command,  
JOHN ROLPH.

NIAGARA FALLS, December 7th, 1852.

To the Honourable

30 THE RESPECTIVE OFFICERS OF THE BOARD OF ORDNANCE, Montreal.

SIRS,—By Mr. Elliott's letters of 8th and 10th ult., I was led to believe that the chain of reserve from the Suspension Bridge at the Falls to the Table Rock had been surrendered by the Department to the Government, but last night I received a communication from the Crown Land Commissioner informing me that the surrender only covers the reservation in front of numbers 145 and 159 in Stamford, and that the reserve from the upper boundary of number 145 and the lower boundary of number 92, is still in the Ordnance.

Under the impression that the whole property or reserve from the Suspension Bridge, or lot number 92, to the Table Rock, was Government Land, and under the



control of the township municipality of Stamford, that body anxious to improve the communication between the Table Rock and the Bridge, which in summer is a great thoroughfare, authorized a company of persons to construct a macadamized road between the points in question—and under this authority the stock was subscribed and a large sum of money has been paid in and a large amount of work done. The municipality subsequently ascertained that they had no control over the property, and supposing the title or right to be in the Government they addressed a petition to the Governor in Council asking them to confirm the authority which they had granted, and hence the answer of the Crown Land Commissioner above alluded to.

10 It is now evident that they must obtain the consent of the officers of the Ordnance Department for that portion of the reserve from number 145 to number 92, and I respectfully solicit on their behalf the permission which they have asked from the Crown but which it seems they are not in a situation to grant except for a very small portion of the way.

I understand that up to 8th November last, by Mr. Elliott's letter, no permission had been given by the Ordnance to any person to construct a road, although I have reason to believe that since that date application has been made by Wm. H. Merritt, Jr., Esq., as president of the St. Catharines and Niagara Falls Suspension Bridge Company Joint Stock Road. But in view of the large amount of money which has 20 been expended on the work under the faith of the promise made by the municipality, and the great improvement that will be effected by the company formed under their assent, I trust that the Ordnance will not withhold from the municipalities the permission which they now seek for, and I am requested by them to make this application accordingly, and which I trust may be successful.

Your early answer to me, here, will much oblige,

Yours most obediently,

THOMAS C. STREET.

EXTRACT from a Report of a Committee of the Honourable the Executive Council  
on Land Applications, dated 9th December, 1852, approved by His Excellency  
30 the Governor-General in Council, on the same day.

On the Petition of the St. Catharines, Thorold and Suspension Bridge Road Company, setting forth that they are desirous of constructing a permanent macadamized road along the bank of the Niagara River, from Queenston Heights to the Suspension Bridge, and praying that, as the Ordnance Department has recently reconveyed to the Crown the reservation of one chain on the top of the bank of that river, in front of certain lots, a free grant may be made to the company embracing the said reservation, from lot number 93, in the Township of Stamford, to the line of the Township of Niagara.

The Commissioner of Crown Lands submits whether, as the power of the Government to make the free grant prayed for seems questionable, with a view to



giving immediate effect to the enterprise, a lease for a period of seven years, at a nominal rent of five shillings per annum, renewable upon such terms as might then be agreed upon might be granted, a condition to be inserted that the same shall be void should the formation of the road not be proceeded with within one year, and be complete within two.

That another mode of meeting the views of the applicants, provided no legal difficulty interposes, would be to declare the chain reservation in question a public highway, and place it under the control of the Council of the Township of Stamford.

The lots prayed for by the applicants, form part of a tract leased by an Order in 10 Council of this date to the municipality of the Township of Stamford.

The committee cannot, therefore, recommend the prayer of the petition.

Certified,

W.M. H. LEE.

REPORT of a Committee of the Honourable the Executive Council, approved by His Excellency the Governor-General in Council, on the 9th December, 1852.

On the Report of the Commissioner of Crown Lands, dated 12th November, 1852, submitting an instrument bearing date 1st October, 1852, executed by James Sutton Elliott, Esquire, on behalf of the Principal Officers of Her Majesty's Board of Ordnance, for the purpose of re-investing in the Crown certain lands bordering on 20 the Niagara River, consisting of the chain reservation on the top of the bank, situated in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92, and also the reservation in front of lots numbers 145, 159, 160, 174, 175, 190, and part of number 191, in the Township of Stamford, in the County of Welland :

The committee recommend that the surrender be accepted, and be enrolled in the usual manner in the office of the Provincial Registrar.

The Commissioner also submits a lease, bearing date 19th October, 1847, from the Principal Officers of the Ordnance, in favour of Mr. Thomas Barnett, whose case was considered in Council 28th October, 1850, accompanied by a sketch, dated 2nd October, 1847, exhibiting the locality of his improvements ; and states that serious contentions have from time to time occurred in regard to the privilege of conducting visitors to the Falls of Niagara to points of interest in the vicinity thereof ; and as matters of that nature can be more satisfactorily adjusted through the instrumentality of the County Council than through the medium of the Executive Government, he suggests a lease to the County Council for a term of seven years for so much of the property surrendered as extends from Table Rock to a distance of three hundred yards above the Falls, for the purpose of effecting such arrangements as might appear to that body most desirable, such lease to contain a clause for sub-letting and another for securing Mr. Barnett in possession of the improvements he has made, for a period of two years from the date of such report ; that it is desirable that access without

Barnetts Lease - 190 Octr 1847

interruption or charge should be secured to the public, to the Falls and their vicinity, and further that should the management of the County Council prove satisfactory, a grant of the property referred to might eventually be made.

The committee recommend that a lease of the tract surrendered, for seven years, at a nominal rent of five shillings per annum be given to the municipality of Stamford, upon the understanding that so much of it as was leased to Mr. Barnett, as, under the circumstances, he ought in justice to have again, should be sub-let to him for a period of two years from this date. The committee also advise that consent be given to construct a road to any company authorized so to do, by the municipality of Stamford, over such portion of the land so surrendered as the municipality may direct, and that the said municipality be permitted, with the consent of the Governor, to sub-let any other portion of the said reserve, covered by the surrender, in such manner as they may consider most conducive to the interests of the public and the locality; provided, however, that free access to the Falls and their vicinity be secured to the public without interruption or charge, as suggested in the report of the Commissioner of Crown Lands, except such legal tolls as may be imposed upon horses and carriages passing over the road so to be constructed.

Certified, JOHN J. McGEE,  
*Clerk Privy Council.*

20

CROWN LAND OFFICE,

Quebec, 11th Dec., 1852.

THOMAS C. STREET, ESQ., M.P.P.,  
Niagara Falls.

SIR,—I beg to acquaint you that, by Order in Council of the 9th inst., accepting the surrender by the Ordnance of the Chain Reservation on the top of the bank of the Niagara River, in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92, and lots numbers 145, 159, 160, 174, 175, 190, and part of lot number 191 in Stamford, consent is given to construct a road to any company authorized so to do by the municipality of Stamford, over such portion of the land so surrendered, as the municipality may direct, and that the municipality be permitted with the consent of the Governor to sub-let any other portion of the said reserve covered by the surrender, in such manner as they may consider most conducive to the interests of the public, and the locality; provided however, that free access to the Falls and their vicinity be secured to the public, without interruption or charge, except such legal tolls as may be imposed upon horses and carriages passing over the road to be so constructed.

The lands in front of lots 93 to 144 inclusive, have been retained by the Ordnance for Military purposes.

THOS. HECTOR, for C.C.



CROWN LAND OFFICE,

Quebec, 11th Dec., 1852.

LUKE CARROLL, Esq.,

Reeve of the Township of Stamford,  
Drummondville.

SIR,—I have the honour to inform you that an Order in Council passed on 9th inst., accepting the surrender by the Ordnance Department of certain lands on the bank of the Niagara River, consisting of the chain reservation on the top of the bank in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92, and also in front 10 of lots numbers 145, 159, 160, 174, 175, 190 and part of lot 191 in the township of Stamford, and directing that a lease of the tract surrendered for seven years at a nominal rent of five shillings per annum be given to the Municipality of Stamford, upon the understanding that so much of it as was leased to Mr. Barnett, as under the circumstances, he ought in justice to have again, should be surrendered to him for a period of two years from this date. By the minute of Council, it is also advised that consent be given to construct a road to any company authorized to do so by the municipality of Stamford, over such portion of the land surrendered as the municipality may direct, and that the said municipality be permitted with the consent of the Governor, to sublet any other portion of the said reserve, covered by 20 the surrender, in such manner as they may consider most conducive to the interests of the public and the locality, provided however that free access to the Falls and their vicinity be secured to the public without interruption or charges, except such legal tolls as may be imposed upon horses and carriages passing over the road so to be constructed.

THOMAS HECTOR, *for C.C.*

CROWN LAND OFFICE,

Quebec, 11th Dec., 1852.

To the HON. WILLIAM H. MERRIT, M.P.P.,

President of the St. Catharines, Thorold &amp; Suspension Bridge Co.,

St. Catharines.

80

SIR,—I have the honour to inform you with reference to the petition of the St. Catharines, Thorold & Suspension Bridge Road Company, for a grant of land on the bank of the Niagara River surrendered by the Ordnance Department to the Crown, that the application having been under consideration of Government, an Order in Council passed on the 9th instant, declaring that, as the lots prayed for formed part of the tract leased by Order in Council to the Municipality of Stamford, the prayer of the petition could not be favourably entertained.

It is suggested, in the Order granting the lease, that consent be given to construct a road to any company authorized so to do by the Municipality of Stamford, 40 over such portion of the land so surrendered as the Municipality may direct.

THOMAS HECTOR, *for C.C.*

Dates.

1 Octo 1852 Surrendered by  
ordnance

p.318 20ct<sup>r</sup> 1852 Conven<sup>t</sup> to by  
Gloucester

5 Nov 1852 Conven<sup>t</sup> &  
Advan<sup>c</sup>e

343 17 Dec 52 Ratification  
of the conven<sup>t</sup>  
already offer<sup>d</sup>

342 11 Dec<sup>r</sup>. Govt ratified  
Coven<sup>t</sup> by  
Gloucester

+ This was the  
final Consent  
46 C.

348

No. 4818.

OFFICE OF ORDNANCE, 17th December, 1852. E.  
2033.

Forwarded for the information and guidance of the Commanding Royal Engineer, Canada, with reference to his letter No. 67, dated 13th November last.

(Sigd.) E. MATTON.

10

A. A. G., 22nd Dec., 1852.

SIR,—Having laid before the Master-General and Board your memo. dated 3rd instant, on a letter from the Commanding Royal Engineer in Canada, forwarding an application from the St. Catharines Road Company for permission to extend their macadamized road along the Chain Reserve of the Niagara River from the Suspension Bridge to the Falls,

I am directed to acquaint you the Master-General and Board have sanctioned a compliance with this application on the understanding that the Department reserve the right to resume possession at any time without notice, or to stop up any part of the road at their discretion.

20

I have, &c.,

G. BUTLER.

The INSPECTOR-GENERAL  
OF FORTIFICATIONS.

NIAGARA FALLS, Dec. 21st, 1852.

Chippawa.

The Honorable,  
THE RESPECTIVE OFFICERS OF THE  
BOARD OF ORDNANCE, Montreal.

SIRS,—I beg leave to refer to my last letter of the 7th inst., praying on behalf of 30 the Township municipality of Stamford, for leave to construct a macadamized road over that portion of the reservation between the Niagara Falls Suspension Bridge and the Table Rock not surrendered by the Ordnance Department to the Government, to which I have not yet been favored with your answer.

I have just received a favourable communication from the Government as regards the portion which your department surrendered to them, and I trust that the Ordnance will see the great advantage that would result to the visitors at the Falls, and to the public generally by the construction of a good road in the place indicated, always under the control of the township authority, and be pleased to direct that they shall be allowed to proceed with the work which they have commenced, so far 40 as it will occupy any portion of the reservation not already surrendered to the Crown;



and waiting your favourable answer, which I shall have much pleasure in communicating to the Township Council,

I am, gentlemen,

Yours most obediently,

THOMAS C. STREET.

OFFICE OF ORDNANCE,

MONTREAL, 23rd December, 1852.

SIR,—With reference to your letter of the 7th instant applying on behalf of the Municipality of Stamford for permission to form a road of the Chain Reservation 10 near the Falls of Niagara,

We beg to acquaint you that the application of Mr. Merritt, M.P.P.,  
Dated 28th September, 1852.  
to allow the St. Catharines and Suspension Bridge Company to continue their road to the Falls was submitted for the favourable consideration of the Home Authorities on the 17th ult.

We have the honor to be, Sir,

Your most obedient humble servants,

WILLIAM BELL,

*Colonel, Com'g. Royal Artillery.*

M. DIXON,

*Colonel, Com'g Royal Engineer.*

J. S. ELLIOTT,

*O. S. Hd. Qrs.*

20

— STREET, Esq., M.P.P.,  
Niagara Falls.

CROWN LAND DEPARTMENT,

QUEBEC, 29th Dec., 1852.

The Hon. WM. HAMILTON MERRITT,  
St. Catharines, Canada West.

SIR,—I am directed by the Commissioner of Crown Lands to acknowledge the receipt of your letter of the 18th instant, and to explain to you that the re-conveyance recently obtained from the Ordnance embraces the Chain Reservation in the Township of Stamford, on the top of the bank, in front of lots No. 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92, and also in front of lots Nos. 145, 159, 160, 174, 179, 190, and part of 191. The reservation in front of Lots 93, 110, 111, 128, 129, and 144, is, you will perceive, retained by the Ordnance.

The lease contemplated by the Order in Council of the 9th instant, of the passage of which you were notified by letter of the 11th instant, will be prepared in favor of the municipality of the Township of Stamford, upon the Reeve, who has been apprized of the proposed arrangement, signifying an acquiescence therein.

The map of the front of the Township of Stamford, received with your letter, has been compared with the original plan in this office, according to your request, and 40 is not found to differ from it in any very important respects as regards the course of the



river, except in the vicinity of the Falls of Niagara, which, you will perceive by the Tracing from the Quebec Map herewith enclosed, were very accurately delineated thereon. Your map is now returned.

W. SPRAGGE,  
*Chief C.C.L.*

OFFICE OF ORDNANCE,

MONTREAL, 30th December, 1852.

SIR,—I am instructed by the Respective Officers to acknowledge the receipt of your letter of the 21st instant, and to refer you to the reply which they had the 10 honour to make on the 23rd, to your previous communication of the 7th instant, in regard to the application of the Township municipality of Stamford for permission to form a macadamized road on the Chain Reservation belonging to the Ordnance near the Falls of Niagara.

I have the honour to be, Sir,  
Your most obedient humble servant,

BLENKARNE.

— STREET, Esq., M.P.P., Niagara Falls.

NIAGARA FALLS, December 31st, 1852.

The Honourable  
20 THE RESPECTIVE OFFICERS OF THE BOARD OF ORDNANCE,  
Montreal.

SIR,—I am favoured with your letter of 23rd inst.; wherein you state that the application of Mr. Merritt on behalf of the St. Catharines Suspension Bridge Company to continue their road along the Reservation to the Falls had been recommended favourably to the Home Authorities. Lest that recommendation should have been made in error or under a misconception of the real state of the case, I deem it proper to inform you that the Government have authorized the Municipality of Stamford to construct a road over that portion of the reservation which you recently surrendered to them, embracing the land at both ends of the reserve, namely, at the Suspension 30 Bridge and above the Clifton House to the Table Rock, being a part of the same line which the St. Catharines Company must pass over and use before they could avail themselves of what remains vested in the Ordnance, supposing the Home Authorities to grant their application. This must inevitably lead to a collision between the Township authorities and the St. Catharines Company and probably result in preventing either from levying toll. Both ends of the line being by the Government placed under the control of the Township Council, the St. Catharines Company could not reach their road, which lies in the middle, without passing, at either end, the gates of the Company authorized by the Township; and the line of the St. Catharines road being broken, neither company could charge toll I fear, neither of them having two 40 continuous miles of road which the statute requires before toll can be exacted.



Under these circumstances, and viewing the Township authority as the proper body through whom to obtain the feelings and wishes of the people in the neighbourhood, who are decidedly opposed to the St. Catharines Company, I trust that the Board will reconsider their recommendation and, following the course adopted by the Government, grant permission to the Municipal Council of the Township to go on and complete the road over the portion which belongs to you, as well as over that now belonging to the Government, and I should have no objection that it should be made a condition that the Township Company should remunerate the St. Catharines Company for any expenditure that they may have actually made towards the construction 10 of the road; but in case you cannot accede to this proposition, I think that you will see that justice is done to the Township Company, who have proceeded in good faith in the expenditure of their money, and order that the license to the St. Catharines Company shall only be valid on their remunerating the other Company for their outlay. I trust that you will see that these proposals are reasonable and well calculated to prevent loss to either company, and likely to secure the successful working of the road.

May I ask the favour of an early reply, and I am, Sirs,

Your most obedient servant,

THOMAS C. STREET.

20 CERTIFIED COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE THE EXECUTIVE COUNCIL,  
APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 27TH APRIL,  
1853.

On an application by Thomas C. Street, Esquire, M.P.P., in reference to the Order in Council of the 9th December last, respecting the chain reservation on the banks of the Niagara River, in the Township of Stamford:

The Order in Council referred to directed that a lease of the tract surrendered by the Ordnance, viz:—From the northern boundary of the Township of Stamford, to the southern limit of lot number 92, being some two or three chains beyond Suspension Bridge, and the Reservation in front of lots numbers 145, 159, 160, 174, 175, 190 30 and part of 191, should be given to the Municipality of Stamford, for seven years at a nominal rent of five shillings per annum; this proposal the Municipality have accepted.

Mr. Street has, however, since produced a copy of a license of occupation in favour of Isaac Swayze, and of a transfer from the latter to his father, the late Samuel Street, embracing the reservation "on the top of the bank of the Niagara River, from a point about two chains to the southward of Table Rock, and extending up the stream about half a mile to lands at that time occupied by Timothy Skinner and Martha and John Burch," also an extract from a patent in favour of the late Hon. Thomas Clarke, embracing the reserve from Mr. Swayze's license to the Military Reserve at



Chippawa, on which tract he, the applicant, has made large and valuable improvements, and which he therefore requests may be excluded from the lease proposed to be granted to the Municipality of Stamford, and that the lease for the remaining portion may issue forthwith.

The Commissioner of Crown Lands reports that the Honourable Mr. Merritt has applied that the said lease should be restricted to the reservation lying between the line of the Township of Stamford and the Suspension Bridge, which would exclude the two or three chains above referred to, and to this arrangement the Commissioner of Crown Lands states there appears to be no objection.

10 That with regard to the privilege proposed by the said Order in Council in favour of Mr. Barnett, he, the Commissioner, suggests that the lease above contemplated should embrace that portion of the tract in the vicinity of the Falls extending from a point "about two chains to the southward of Table Rock to the northern limit of the late Military Reserve surrendered," and from the western limit of that reserve to the top of the bank, and comprehending any property between the top of the bank and the water's edge.

20 The Committee recommend that the tract occupied by Mr. Street be excluded from the lease to the Municipality of Stamford, that the limits proposed by the Commissioner be adopted, and the lease issue accordingly, leaving the appropriation of the two or three chains to the south of the Suspension Bridge, on lot 92, open for future consideration; and that such parts of the Order in Council of 9th December as may be inconsistent with the present recommendation be rescinded.

The Committee also advise that no buildings be erected by the municipality or their lessees on the tract in question unless plans and specifications of the same be submitted to the Department of Public Works and receive the approval of the Commissioners.

Certified, JOHN J. McGEE,  
*Clerk Privy Council.*

LEGISLATIVE ASSEMBLY,

30

QUEBEC, 30th April, 1853.

SIR,—I have the honour to acknowledge the receipt of your favour of this day informing me that the chain of allowance above the Suspension Bridge, two or three chains in length, is reserved by the Government for future consideration.

The President of the St. Catharines, Thorold and Suspension Bridge Road has enclosed the within letter from the office of Ordnance, which proves it was their intention to convey all this reservation lying above this line to that company. Should it remove all doubt on that subject, they feel entitled to the occupation of that short distance so reserved. At the same time I would respectfully suggest that a condition should be inserted in the occupation of this road to the effect that if the Muni-

Proposed Lease to Hampshire

cipality of Stamford should neglect or refuse to open and make a road on to this reservation, from the town line of Niagara at Queenston to the Suspension Bridge, within two years from the date of the lease, that the same shall be rescinded.

This will effectually prevent this line from remaining wholly shut up, as at present, when a company are ready to construct it.

The whole frontier are interested in having this road opened as early as possible, as it opens the most beautiful view of the river the whole way from the Bridge to Brock's Monument, and will attract many strangers to this side of the river.

I have the honour to be, Sir,

10

Your obedient servant,

W. HAMILTON MERRITT.

To the Honourable

THE COMMISSIONER OF CROWN LANDS.

OFFICE OF ORDNANCE,

MONTREAL, 5th May, 1853.

SIR,—In acknowledging the receipt of your letter of the 27th ult., on the subject of the occupancy by the St. Catharines, Thorold and Suspension Bridge Company of the Chain Reserve from the Bridge to the Falls;

We beg to observe that lot 92 was surrendered to the Provincial Government in consequence of the position of the Suspension Bridge being considered in the centre of lot 93, otherwise lot number 92 would have been likewise reserved; and we would therefore recommend the Local Government to accede to your application by permitting the company to occupy the space above the bridge in front of lot 92.

We have the honour to be, Sir,

Your most obedient humble servants,

WILLIAM BELL,

*Colonel Commgng. Royal Artillery.*

M. DIXON,

*Colonel, Commanding Royal Engineer.*

J. S. ELLIOTT,

*O. S. Hd. Qrs.*

30

To WILLIAM HAMILTON MERRITT, M.P.P.,

Quebec.

(Answered 19th May, 1853.)

LEGISLATIVE ASSEMBLY, 10th May, 1853.

SIR,—I have the honour to enclose herewith a letter from the officers of Her Majesty's Offices of Ordnance, which you will no doubt believe fully establishes the right of the St. Catharines Bridge Co. to the chain of allowance on lot number 92.

I have the honour to be, Sir,

Your obedient servant,

WM. HAMILTON MERRITT.

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To the Hon. JOHN ROLPH,

Commissioner of Crown Lands.



## PROVINCE OF CANADA.

ELGIN &amp; KINCARDINE.

*VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland.  
QUEEN, Defender of the Faith.*

To ALL TO WHOM THESE PRESENTS SHALL COME—GREETING :

Know ye, that in consideration and subject to the proviso, conditions and restrictions hereinafter contained, we have demised, leased, set and to farm let, and by these presents do demise, lease, set and farm let unto the Municipal Council of the Township of Stamford, in the County of Welland, all that parcel of land in the  
 10 Township of Stamford, in the County of Welland, being composed of all the Reserve along the top of the bank of the River Niagara, and the strip of land lying between the said Reserve and the water's edge of the said river, in front of lots number 1, 20, 21, 40, 41, 58, 59, 74, 75 and the northerly part of lot number 92 of the said Township, that is to say: firstly, commencing in the northern limit of the said lot number 1, at the distance of one chain on a westerly course from the top of the bank of the River Niagara; then southerly, parallel to, and always at the distance of one chain from the said top of the bank, three miles and a half, more or less, to the northern limit of the roadway leading to the Suspension Bridge in the said lot number 92; then east to the water's edge of the River Niagara; then northerly, following the same, to the  
 20 aforesaid northern limit of lot number 1 produced; then west to the place of beginning; containing fifty acres, more or less; also, secondly, all that parcel of land in the aforesaid Township and County, composed of all the Reserve along the top of the bank of the River Niagara, and the strip of land lying between the said Reserve and the water's edge of the said river, in front of lot number 145 and part of lot number 159 of the said Township, that is to say: Commencing in the limit between lots number 144 and 145, at the distance of one chain on a westerly course from the top of the bank of the River Niagara; then southerly, parallel to, and always at the distance of one chain from the said top of the bank, to the northern limit of lands, also on the top of the bank of the said River, for which a license of occupation issued to  
 30 Isaac Swayze on the fourth day of May, one thousand eight hundred and four, being at the distance of about two chains to the southward of the Table Rock; then east to the water's edge of the aforesaid River Niagara; then northerly, following the same, to the aforesaid limit between lots numbers 144 and 145 produced; then west to the place of beginning; containing four acres, more or less.

To HAVE AND TO HOLD the above described parcels of land to the said Municipal Council, for the term of seven years from the ninth day of December, one thousand eight hundred and fifty-two, at an annual rent of five shillings, and on the following conditions :—That the said Municipal Council shall sub-let to Thomas Barnett, for a term of two years from the aforesaid ninth December, one thousand eight hundred



and fifty-two, so much of the land described in the second description, and in front o lots numbers 145 and 159, as was assigned to him by a lease from the Principal Officers of Her Majesty's Ordnance, bearing date the nineteenth day of October, one thousand eight hundred and forty-seven.

That the said Municipal Council shall have the power to authorize any legally constituted company to construct a road over any portion of the said parcels of land, and that they shall also have the power to sub-let (with the consent of the Governor-General) any other portion thereof, in such manner as they may consider most conducive to the interests of the public, but they shall not erect, or permit to be erected 10 by their lessees, any buildings thereon, unless plans and specifications of the same shall have been first submitted to and received the approval of the Commissioner of Public Works, nor shall anything contained in the lease be construed to prevent the public from having free access to the Falls and its vicinity, under such regulations as the said Municipal Council may from time to time deem desirable, without interruption or charge, except such tolls as may be imposed upon the horses and carriages passing over the road, which may be constructed in consideration of the authority above conferred.

Given under the Great Seal of the Province of Canada, witness Our Right Trusty and Right Well-Beloved Cousin, James, Earl of Elgin and Kincardine, Knight of the 20 Most Ancient and Most Noble Order of the Thistle, Governor-General of British North America, and Captain-General and Governor in Chief in and over Our Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c., &c., &c., at Quebec, this ninth day of May, in the year of Our Lord one thousand eight hundred and fifty-three, and in the sixteenth year of Our reign.

By Command of His Excellency in Council.

JOHN ROLPH,

*Commissioner of Crown Lands.*

E. A. MEREDITH,

*Assistant Secretary.*

30 Des. No. 1688, Lease H. I.

TOWNSHIP CLERK'S OFFICE,

DRUMMONDVILLE, May 14th, 1853.

SIR,—I have the honour, by command of the Municipal Council of the Township of Stamford, in council assembled this day, to acknowledge the receipt of an extract from a report of a committee of the Honourable the Executive Council on Land Applications, dated 27th April, 1853, approved by His Excellency the Governor-General in Council, on the 27th April, 1853.

The above report was submitted and read this day and the following resolution passed, and ordered that the clerk of this Council communicate the same to you for 40 the information of said honourable committee.



*Resolved*, The municipal council for the Township of Stamford respectfully decline taking the lease as specified within said report, as they are of opinion that the same could not in any way benefit the Township of Stamford.

I have the honour to be, Sir,

Your obedient servant,

RICHARD HENLY,

WILLIAM H. LEE, Esq.,

Township Clerk.

Acting Clerk, Executive Council, Quebec.

## No. 95.

10 LETTER, MR. T. C. STREET TO MR. T. HECTOR OF CROWN LANDS OFFICE,  
WITH REFERENCE TO HIS PURCHASE ON NIAGARA RIVER.

CHIPPEWA, NIAGARA FALLS, November 8th, 1853.

THOMAS HECTOR, Esq.,

Crown Lands Office, Quebec.

DEAR SIR.—I have your letter of 2nd instant, informing me that I may, by Order in Council, be allowed to purchase the Island in Niagara River in front of number 175 in Stamford, at a valuation by the local agent.

I beg to inform you that this valuation has already been made by a Deputy-Provincial Surveyor, as well as by your late agent, William E. Pointer, Esq., now deceased, and the original is filed in your office, dated 9th August, 1849, to which I beg to refer you, and which I presume will supersede the necessity of a second valuation, and if so, I will at once remit the amount, that the patent may be prepared and forwarded to me.

May I beg the favour of your early reply on this head.

I have to acknowledge receipt of the Crown Patent for part of number 18, second concession Windham, for which I am obliged. I beg to notify you that I have bought Wellington B. Sanderson's right to school lot, south half number 30, fifth concession Morris, and will thank you to write me for it, in his stead.

Yours truly,



## No. 96.

## GRANT OF LANDS TO T. C. STREET.

W.M. ROWAN.

PROVINCE OF CANADA.

*Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith, &c., &c., &c.*

TO ALL TO WHOM THESE PRESENTS SHALL COME—GREETING.

WHEREAS Thomas C. Street, of the township of Stamford, in the county of Welland, Esquire, hath contracted and agreed to and with our Commissioner for the sale of our Crown lands, duly authorized by us in this behalf, for the absolute purchase, at and for the price or sum of twenty pounds of lawful money of our said province, of the land and tenements hereinafter mentioned and described, of which we are seized in right of our Crown:

Now know ye, that in consideration of the said sum of twenty pounds, by him the said Thomas C. Street to our said Commissioner Recorded 24th March, 1854.  
of Crown Lands in hand well and truly paid to our use, at or before  
THOS. AMIOT, *Deputy Registrar.* the sealing of these our letters patent, We have granted, sold, aliened, conveyed and assured, and by these presents do grant, sell, alien, convey and assure, unto the said Thomas C. Street, his heirs and assigns for ever, all that parcel or tract of land situate, lying and being in the county of 20 Welland in our said Province, containing by admeasurement ten acres be the same more or less; which said parcel or tract of land may be otherwise known as follows, that is to say: being composed of an island in the River Niagara opposite lot number one hundred and seventy-five in the township of Stamford, known as Cynthia Island,

TO HAVE AND TO HOLD the said parcel or tract of land, hereby granted, conveyed and assured unto the said Thomas C. Street, his heirs and assigns, for ever; saving, excepting and reserving, nevertheless, unto us, our heirs and successors, all mines of gold and silver, the free uses, passage and enjoyment of, in, over and upon all navigable waters that shall or may be hereafter found on, or under, or be flowing through or upon any part of the said parcel or tract of land hereby granted as aforesaid.

GIVEN under the great seal of our Province of Canada; WITNESS, our trusty and well-beloved William Rowan, Esquire, C. B., Administrator of the Government of our said Province, and Lieutenant-General commanding our Forces therein, &c., &c.,



at Quebec, this ninth day of March, in the year of Our Lord, one thousand eight hundred and fifty-four, and in the seventeenth year of our reign.  
By command of His Excellency in Council.

PIERRE J. O. CHAUVEAU,  
*Secretary.*

A. N. MORIN,  
*Commissioner of Crown Lands.*

Ref. No. 13546.

Sale No. 10212.

H. J. J.

10

## No. 97.

### DOCUMENTS RESPECTING TRANSFER OF ORDNANCE LANDS IN CANADA TO THE GOVERNMENT.

SIR GEORGE GREY TO GOVERNOR-GENERAL THE EARL OF ELGIN.

COLONIAL OFFICE, 8th September, 1854.

CANADA.

CONFIDENTIAL.

MY LORD,—With reference to a subject on which I understand several communications to have taken place during your recent residence in England, between your Lordship and Mr. Hicks on the one hand, and the Duke of Newcastle on the other, 20 namely, the proposed surrender of a considerable portion of the Ordnance reserves in Canada to the Provincial Government, concurrently with the withdrawal of the greater part of the troops from the province, I wish to put you as early as possible in possession of the general views of Her Majesty's advisers.

2. It appears to them that from this general surrender should be excepted in the first place a few points of the highest importance for the military defence of the country. The most important positions may be said to be Quebec, which commands the maritime approach, Kingston, the naval arsenal for Lake Ontario, and Montreal, the great centre of action for the whole country, being the point on which the great lines of approach from the United States, by the Richelieu and St. Lawrence, converge.

30 Such portions of the Ordnance reserve in these three localities as are essential for the military defence of the colony should therefore be retained by Her Majesty's Government for that purpose.

3. In the next place the Ordnance reserves comprise certain points in other parts of the colony, not indeed equally important with the former, but which in the event of military operations might be of great use for defensive purposes.

Hinck

Subject to any exceptions which it may be deemed necessary to make after receiving the report called for in this despatch, Her Majesty's Government are of opinion that this portion of the reserves may be made over to the Provincial Government in consideration of their undertaking to make ample provision for the ordinary defence and protection of the colony. It will be of importance, however, to obtain the best opinion which military experience, combined with local information, can afford, as to the value which, considering the changeable nature of military exigencies, ought to be attached to the forts or posts comprised under this head.

4. Lastly the remaining Ordnance reserves, such namely as possesses no appreciable military importance, will be surrendered absolutely by the Imperial Government, subject only to existing arrangements such as those for the location of pensioners.

5. I have therefore to instruct you to consult, confidentially, with General Rowan and the officer commanding the Engineers, with a view to determine these several points, viz., what portion of the Ordnance lands it is essential to retain, having regard to the military defence of the colony, for which, in the event of hostilities, it would be the duty of Her Majesty's Government to provide; what, although not essential, may be valuable for military purposes in the hands of the Local Government; and what engagements or liabilities may effect the portions to be surrendered.

20 On all these points your Lordship will request General Rowan (with the assistance of the Engineers Department) to draw up a detailed report, which you will transmit to me for the consideration of Her Majesty's Government, accompanied by any suggestion which your Lordship may have to offer on the subject.

6. As the basis however of this whole arrangement, Her Majesty's Government feel it right to require that there should be an open and formal undertaking on the part of the Provincial Government and Legislature to provide for the defence of the province, for which purpose it will be necessary that the Provincial Government should retain as military stations, to be occupied by militia or some other local force, those posts which in the event of war might require to be garrisoned by British troops.

30 Considering the value of the lands proposed to be absolutely surrendered, and the importance to the province itself of the object to be secured, H. M. Government cannot doubt that such an undertaking will be readily given.

In connection with this subject, the question of the disposal of the military stores in the forts comprised in the lands to be surrendered will have to be considered, with a view to their being placed in proper custody, and being available when required for military purposes.

I have, &c.,

G. GREY.

Governor-General,

40 The EARL OF ELGIN, &c., &c., &c.



CAPTAIN GRIFFIN, MILITARY SECRETARY, TO COMMANDING ROYAL  
ENGINEER, CANADA.

MONTREAL, 12th October, 1854.

COMMANDING ROYAL ENGINEER, Canada.

SIR.—By direction of the Lieutenant-General Commanding, I have the honour to transmit herewith, copy of a communication from the Governor-General, giving cover to a copy of a confidential despatch, addressed to His Excellency by the Secretary of State for the Colonies.

You will perceive that Her Majesty's Government desire to be furnished with a detailed report upon the subject of the Ordnance lands in Canada. In accordance with Sir George Grey's instructions the Lieutenant-General Commanding has requested the Respective Officers to prepare a return containing full information on the following points :—

1. A list of the different places where Ordnance lands are situated, numbered from the most eastern post on the Temiscouata Portage Road to Amherstburg on the Detroit River, with the approximate contents in acres, the description of buildings or Military works executed thereon, how acquired by the Board of Ordnance, that is, by conquest, purchase, or reserved for Military purposes from the Crown lands, and what engagements or liabilities may affect any portions of the lands—such 20 as those for the location of pensioners.

2. A similar return of the lands which have been set apart for Naval purposes.

3. A separate return of the lands which have from time to time been purchased and paid for from Imperial funds, not including those on the actual line of the Rideau and Ottawa Canals.

I am to request that you will cause a sketch Map to be prepared showing the positions, and marked to correspond with the numbers given in the return furnished by the Respective Officers of the different Ordnance lands, and also of the lands which have been reserved for Naval purposes. When this map and returns have been completed, the Lieutenant-General will be glad to receive your opinion on the following points, namely :—

1st. What portion of the Ordnance lands it is essential to retain, having regard to the Military defence of the Colony, for which in the event of hostilities it would be the duty of Her Majesty's Government to provide.

2nd. What portion of the Military Reserves, although not essential, may be valuable for Military purposes in the hands of the Local Government.

3rd. The remaining Ordnance Reserves, such, namely, as possess no appreciable Military importance, and may therefore be surrendered absolutely by the Imperial Government, subject only to existing arrangements, such as those for the location of pensioners.



COLONEL ORD, COMMANDING ROYAL ENGINEER, TO CAPTAIN GRIFFIN.

ROYAL ENGINEER HEAD QUARTERS,

MONTREAL, 31st October, 1854.

SIR,—In conformity with the instructions of the Lieutenant-General Commanding, as contained in your letter of the 12th instant, I have the honour herewith to forward a sketch map, showing the position of different Ordnance lands, and also of the lands which have been reserved for Naval purposes, numbered from the most eastern point towards the west, as adopted in the returns furnished by the Board of Respective Officers in accordance with His Excellency's instructions.

- 10 His Excellency next calls for my opinion as to what portion of the Ordnance lands it is essential to retain, having regard to the Military defence of the Colony for which in the event of hostilities it would be the duty of Her Majesty's Government to provide.

Under this head I beg to state that I consider, for the more essential security of the Colony, generally, no portion of the Military Reserves, or property of the Principal Officers of the Ordnance, including the Island of St. Helens; or at Kingston, including Cedar Island, Snake Island, and Horseshoe Island, should be surrendered either absolutely or conditionally. See numbers 3, 6 and 8 tinted red in the map.

- 2ndly. With reference to the second point required by His Excellency, viz:—  
 20 "What portion of the Military Reserve, although not essential, may be valuable for "military purposes in the hands of the Local Government." In this class, I should recommend that the ground on which the Blockhouse at Madawaska (No. 1) stands, should be placed ; and No. 4 Three Rivers, appears to come next in this list, from its situation, whence it may derive some importance should troops have to move with rapidity between Montreal and Quebec. As also Sorel, No. 5, Chamby, No. 8, St. Johns, No. 9, Isle aux Noix, 10, outposts of some moment in retarding the approaches of an enemy in an attempt on the Island of Montreal, if undertaken in that direction.

- Nos. 6 and 7, Longueuil, and Laprairie, are becoming daily of more importance, as the termini of several railroads approach their vicinity and should therefore be like-  
 30 wise included.

In like manner, to guard against or retard the efforts of an enemy in the direction of Chateauguay, or his endeavours to possess himself of the passages of the St. Lawrence above Montreal, and thus to cut off our communication with the Upper Province, it is desirable that the Blockhouse of Chateauguay, No. 11, and the Military posts, 14, Coteau du Lac, 16, Prescott, now a railway station, and, 17, the Blockhouse at Grant's Island, if held by the Colonial Government, should be maintained essentially for military purposes.

Toronto, No. 20. This rapidly improving town, with its harbour, demands protection, as does also the harbour of Burlington Bay, No. 21, whilst the posts on the



Niagara, viz.: Niagara, Queenston, Lyons Creek, Chippewa, Navy Island, and Fort Érie, together with Short Hills (as a strong position for defensible works), and Fort Maitland, numbered respectively 23, 24, 25, 26, 28, 22, 28½, should, with the chain reserve, be retained for Military purposes, being valuable in the defence of that portion of the frontier; so should also, with the same object, the posts at Amherstburg, Fighting Island, and Windsor, Nos. 33, 34, and 35.

The line formed by Rondeau, Chatham (a post well suited for a strong work to command the navigation of the Thames), and Point Edward (or Sarnia), the terminus and termination of the Grand Trunk Railroad, with London, to keep up communication with Toronto and Niagara, viz.: Nos. 32, 31, 36 and 30, certainly appears strongly in favour of their admission into this class.

Their connection by railroads, as seen on the map, with the whole of Ontario from Kingston to Toronto, obviously places Sydenham, Notawassaga, and Penetanguishene, Nos. 37, 38 and 39, in the same category, whilst the general protection which St. Joseph's, Little Neebish, and St. Mary's Islands offer to the passage of the channel between Lakes Superior and Huron draw them also into the same. See Nos. 40 and 41.

Bytown, 42, if not deserving a place in the first class, of necessity falls into the second, as do also the 5 Blockhouses on the Rideau Canal.

I now approach the 3rd class of Ordnance Reserves, namely, "such as possess no appreciable Military importance, and may therefore be surrendered absolutely by the Imperial Government, subject only to existing arrangements, such as those for the location of pensioners."

Considering how soon works are thrown up where most required when an enemy is about to take the field, and how the value of posts change with the changes that occur in the modes and lines of travelling, I apprehend that there can be no objection to the absolute surrender of the reserves at Fort Ingall on the Temiscouata, at the Cascades, the Cedars, and Cornwall, at Cape Vesey, Green Point, and Turkey Point, which are numbered respectively 2, 12, 13, 19, 19½ and 29.

In the above proposed arrangement, the location of pensioners at Fort Erie, London, Amherstburg and Penetanguishene will have to be especially entertained.

The Naval reserves are marked in the map in blue with a small anchor to distinguish them.

Trusting this map and report may be satisfactory to His Excellency the Lieutenant-General Commanding,

I have, &c.,

W. R. ORD,  
*Col., Commanding Royal Engineer.*



REPORT FROM J. S. ELLIOTT, ORDNANCE STORE-KEEPER, CANADA, TO  
 SECRETARY BOARD OF ORDNANCE, TRANSMITTING RETURN OF  
 ORDNANCE AND NAVAL LANDS, CANADA. RETURNS CALLED FOR  
 BY MILITARY SECRETARY'S LETTER OF 12TH OCTOBER.

Ordnance No. 146.

OFFICE OF ORDNANCE,

Montreal, 1st Nov. 1854.

SIR,—The Governor-General having communicated to the Lieutenant-General commanding, a despatch dated 8th Sept. last, from the Secretary of State for the 10 Colonies, requiring a detailed report upon the subject of the Ordnance Reserves in Canada, in connection with the subject of the recent withdrawal of a large portion of the troops from this province, and the steps necessary to be taken by the Provincial Government in consequence thereof, for the future defence of the colony, and the Lieutenant-General having called upon the Respective Officers for returns to enable such a report to be compiled.

I have the honour herewith to enclose (with the Lieutenant-General's approval) copies of three returns prepared by me in accordance with the minute of the Respective Officers at Headquarters which have been supplied to His Excellency, viz :

- 20      1. A General Return of Ordnance Lands in Canada.
- 2. A return of Naval Lands in Canada.
- 3. A return of Lands purchased by Imperial funds for Military purposes.

Concurrent with calling for these Returns the Lieutenant-General also required from the Commanding Royal Engineer a general outline plan of the Military Posts and Reserves in Canada, with a report dividing the same into the three following categories :—

- 1. Lands essential to retain for Military Defence of the colony, for which, in the event of hostilities, it would be the duty of Her Majesty's Government to provide.
- 2. That portion of Military Reserves which although not essential may be 30 valuable for military purposes, and should be retained in the hands of the Local Government.
- 3. Those lands that may absolutely be surrendered to the Local Government.

The appointment of the various properties under one or other of these heads as made by the Commanding Royal Engineer in the report thus called for, will be found noted in the column of remarks in red ink figures, on the enclosed general return.

No. 1. And as the appointment of certain of the properties of the department under the second category, appears to me inconsistent with the principle adopted



by the Secretary of State in Mr. Merivale's letters, dated 2nd and 28th Jan., 1854, respecting the property at Bytown, I have deemed it but right to communicate thereupon confidentially with you for the information of the Lieutenant-General and Board.

A reference to Sir George Grey's despatch of the 8th September will at once induce the conviction that in dealing with the subject, the whole of the Ordnance or military lands in Canada have been viewed as "Reserves," and dealt with under the equitable view that having been set apart from the Crown Reserves of the Province for a purpose which no longer appears requisite, they should now revert 10 to the control from whence they had been withdrawn; whereas an examination of returns numbers 1 and 3 will show that a great proportion of the properties, of large value, acquired for military purposes in Canada, has been purchased by Imperial funds, to the extent of £205,947 sterling, which fact it would appear to me altogether withdraws them from consideration as "Reserves," to which Sir G. Greys' despatch would seem to allude.

The apportionment made by the Commanding Royal Engineer places under the second category of lands, which though not now essential, should be retained by the Provincial Government for military purposes, the Seigniory of Sorel, the land purchased at Longueuil, near Montreal, within the last few years for a Tete de Pont, 20 Fort Wellington at Prescott, the Short Hills Farm, and the land at Bytown, together with some other places of minor importance which do not appear to me to come within the views of the Secretary of State, and the transfer of the first and last of which would of themselves incur a loss of revenue to the Imperial Government of £2,600 per annum.

A further examination of the general return will show that the lands which the Commanding Royal Engineer considers may be unconditionally surrendered are very few, and when their small value as wild land, together with the small value of the military reservations west of Toronto, which that officer proposes to conditionally transfer to the Province is coupled with the terms upon which such 30 transfers are to be made as laid down by the Secretary of State, their influence in the negotiation will be so narrowed, as, I apprehend, to render them scarcely available towards carrying out its object into effect.

I have the honour to be, Sir,

Your most obedient humble servant,

J. S. ELLIOTT,

*O. S. Headquarters, Canada.*

J. WOOD, Esq.,

&c., &c.



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**No. 1.**

**GENERAL RETURN OF ORDNANCE LANDS IN CANADA.**

- No. 1.—Lands essential to retain, for the Military Defence of the Colony, for which, in the event of hostilities, it would be the duty of Her Majesty's Government to provide.
- No. 2.—That portion of the Military Reserves which, although not essential, may be valuable for military purposes, in the hands of the Local Government.
- No. 3.—May be absolutely surrendered to the Local Government.
-



No. 1.  
RETURN of Ordnance Lands in Canada called for by Military Secretary's Letter of 12th October, 1854.

Station.	Approximate Contents.	Description of Buildings or Military Works Erected.	How acquired.	Cost of Purchase, Sterling.	Liabilities or Engagements affecting the Land.	If Let, the Rent payable to the Ordnance, Sterling.	Remarks.
				£ s. d.	£ s. d.	£ s. d.	
1 Madawaska.....	24 3 6	A block house for fifty men.	Purchased.....	250 0 0	Sundry fields round the town, the Exercising field and other premises let on resumable leases.	No. 2.	
2 Temiscouata.....	11 2 13	Stockaded barracks (A Citadel, its glacis and fortifications, four towers exercising ground, St. Lewis Barracks, Dauphin Barracks, Jesuit Barracks, esplanade, engineer yard, magazines, wharf, &c., &c.)	Reserved..... By conquest.....				No. 3.
3 Quebec.....	334 1 30	Site of houses outside the walls, purchased after fires in 1845, to keep the defences clear.	By purchase.....	39,903 5 8		336 3 6	No. 1.
			By purchase..... do .....	3,803 4 1 12,573 11 8			
			do .....	4,207 7 11			
4 Three Rivers.....	3 2 19	Outside the Citadel					
	28 1 19	Site of Commissariat Office and Quarters.					
	2 2 23	Barracks.....					
	0 3 26	Fuel yard.....					
5 Sorel.....	380 0 0	Barracks, Cottage, Military Reserve.....	By conquest.....				
	45220 0 0	Seigniory.....	By purchase.....	4,035 0 0	Conceded under the Seigniorial Law.	875 0 0	
6 Montreal.....	17 3 7	Quebec Gate Barracks, Artillery Barracks, Fuel Yard, Commissariat Store, Chann de Mars Parade, Military Burial Ground	By conquest.....				
		Site of two houses in Dalhousie Square, Officers' Quarters.	By purchase..... do .....	1,126 13 4 3,440 3 8			
			do .....				
			do .....				
115 3 22	Site for a new Barrack.....		do .....	44,895 4 1			
113 0 0	Island of St. Helen's, on which are Infantry Barracks, Magazines and Ordnance Stores.		do .....	15,000 0 0			
27 0 0	Isle Ronde and Isle de la Prairie.....						
198 0 0	Longueuil, site of a proposed Tête du Pont.						
7 Labrairie.....	42 1 8	Barracks for Cavalry, Artillery and Infantry.	By purchase..... do .....	10,498 10 6 111 18 3	Let on resumable leases, Revertible to the Corporation of Laprairie.	No. 2.	
		Reserved.....				No. 2.	

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Map of Royal  
Engineers  
No. on Map of Royal  
Engineers



No. 1.—RETURN of Ordnance Lands in Canada called for by Military Secretary's Letter of 12th October, 1854—*Con.*

Station.	Approximate Contents.	Description of Buildings or Military Works, Erected.	How Acquired.	Cost of Purchase, Sterling.	Liabilities or Engagements Affecting the Land.	If Let, the Rent Payable to the Ordnance. — Sterling.	Remarks.
				£ s. d.	£ s. d.	£ s. d.	
8	A. R. P.	Chambly . . . . .	Old Fort, Cavalry, Artillery and Infantry Barracks.	By conquest. . . . .	In part let on resumable leases. . . . .	30 15 5	No. 2.
9		St. John's . . . . .	1 22 Infantry Barracks and Fort. . . . .	By purchase. . . . .	551 16 8	34 8 3	No. 2.
10		Isle aux Noix and Cascades . . . . .	0 0 Fort Lennox. . . . .	By conquest. . . . .	In part let on resumable leases. . . . .	2 18 5	No. 2.
11		Chateauguay . . . . .	5 0 1 Formerly a woodyard and common, through which the canal passes. . . . .	Block House. . . . .	181 13 4	Revertible to the Seignior. Qo. . . . .	No. 2.
12		Cedars . . . . .	9 0 12 Storehouse and wharf . . . . .	By purchase. . . . .	410 19 2	Rent of church. . . . .	No. 3.
13		Coteau du Lac . . . . .	0 2 23 Fort, with soldiers' barracks . . . . .	By reservation & purchase. . . . .	0 4 2	No. 3.	No. 2.
15		Cornwall . . . . .	1 0 0 Fuel yard. . . . .	Purchased. . . . .	39 10 10	No. 3.	No. 2.
16		Prescott . . . . .	74 0 0 Fort Wellington. . . . .	do . . . . .	1,602 14 9	In part let on resumable leases. . . . .	No. 2.
17	G r a n t ' s Island, Brockville.	0 2 32	Block House. . . . .	do . . . . .	do . . . . .	do . . . . .	No. 2.
18	Kingston . . . . .	584 1 0	Fort Henry, Military Hospital, Naval Reservation, Establishment, Point Frederick, Battery and Tower Exercising Field.	Purchased . . . . .	25,000 0 0	In part let, on resumable leases. . . . .	
180	3 4	Lot No. 23, Hinchmer's Farm . . . . .	1 210 Gore between lots 23 and 24. . . . .	Purchased . . . . .	1,446 0 9	do . . . . .	
11	1 31	Part of lot 24 . . . . .	1 31 Part of lot 24 . . . . .	do . . . . .	3,685 7 4	do . . . . .	
15	0 0	Part of lot 24 . . . . .	0 0 do . . . . .	do . . . . .	1,431 13 4	do . . . . .	
6	2 8	do . . . . .	do . . . . .	do . . . . .	3,287 13 5	do . . . . .	
6	1 4	Tower, &c., at Murney's Point. . . . .	0 16 No. 2 block house. . . . .	do . . . . .	do . . . . .	do . . . . .	
1	2 0	Market Battery and Shoot Tower. . . . .	1 0 Market Battery and Shoot Tower. . . . .	do . . . . .	do . . . . .	do . . . . .	
3	3 0	Tete du Pont Barracks, Wharf, &c. . . . .	0 2 0 Lot No. 19, Place d'Armes and Lots 21 and 22 Commissionair Office. . . . .	do . . . . .	do . . . . .	do . . . . .	
0	2 0	do . . . . .	0 2 16 Lots 23, 24 and 25, Place d'Armes. . . . .	do . . . . .	do . . . . .	do . . . . .	
8	0 16	Artillery Barracks, Forge Yard and Engine Shop, &c. . . . .	8 0 16 Late Commandant's Quarter, and Lots 382 Purchase, and 413. . . . .	Purchase. . . . .	1,084 5 4	do . . . . .	No. 1.
3	2 24	do . . . . .	0 1 24 Lot No. 286. . . . .	do . . . . .	164 7 8	do . . . . .	No. 1.
3	1 5	Old Tannery . . . . .	3 1 5 do . . . . .	do . . . . .	888 6 8	do . . . . .	No. 1.



No. 1.—RETURN of Ordnance Lands in Canada, called for by Military Secretary's letter of 12th October, 1854—Con.

Station. No. on Map of Royal Engineers.	Approximate Contents.	Description of Buildings or Military Works Erected.	How Acquired.	Cost of Purchase. Sterling.	Liabilities or Engagements Affecting the Land.	If Let, the Rent Payable to the Ordnance.	Remarks.
18 Kingston.....	A. R. P.	44 3 17 Ferguson Property.....	Patent not yet issued.	1,644 0 10	Under license of occupation, re- sumable on in- demnifying the parties.	No. 1.	No. 1.
19 Cape Vesty, Prince Edward.	1,290 0	44 2 3 Lot No. 20, Pittsburgh..... 85 0 0 do 21 339 0 20 S 1/2 of Lot 16, 1st Con., Kingston..... 222 3 24 Cedar Island..... 110 0 0 Horse Shoe Island.....	Purchased..... Exchange..... Reserved.....	do.....	do.....	No. 1.	No. 1.
19 1/2 Green Point, Bay of Quinte.	100 0 0	1 0 0 Snake Island..... 100 0 0 Kingston Mills, Block House..... Proposed defence.....	do..... do..... do.....	do.....	do.....	No. 1.	No. 1.
20 Toronto.....	487 0 0	do do Old Fort, New Barracks, Hospital, &c..... 3 0 11 Bathurst Street Barrack.....	do..... do.....	do..... do.....	do..... do.....	A few small Ten- ancies producing	8 11 6 No. 2.
21 Hamilton.....	1,78 0 0	1 0 0 Commissariat Officer's Quarters..... 1 1 3 0 Const. and Bk. Store, Guard House..... 3 2 10 Engineer Office, &c..... 6 6 20 Victoria Square..... 178 0 0 Burlington Heights.....	do..... do..... do..... do..... do.....	do..... do..... do..... do..... do.....	do..... do..... do..... do..... do.....	50 acres occupied by Sir A. Mc- Nab, under license.	No. 2.
22 Short Hills..... 23 Niagara.....	290 0 0 .....	Lots 5 and 6 in 6 Con. of Pelham..... A chain Reserve along the bank of the Reservation..... Niagara River.	Purchased.....	433 10 0	do..... do.....	Some portions let on resumable leases.	47 5 2 No. 2.
24 Queenston..... 25 Lyon's Creek..... 26 Chippewa.....	374 4 0 66 2 14 175 4 0 3 1 0 19 3 27	Garrison Reserve, Barracks, Hospital, &c..... Fort Mississauga..... Lots 73, 89 and 90..... Block of Land in the Town..... Runs of Detences, Barracks, &c..... For Defence of Chippawa River..... Barracks and store.....	do..... do..... By exchange for Lots 103 & 104.	do..... do..... do.....	do..... do..... do.....	Reserve..... do..... do.....	No. 2.

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See further  
in 389  
for which  
Letter  
last receipt

144 42.14

see sketch  
at half 395

$$\begin{array}{r} 374 \quad 0.0 \\ 66 \cdot 2.14 \\ \hline 440 \cdot 2.14 \\ 4 \overline{)44.2.14} \end{array}$$

No. 1.—RETURN of Ordnance Lands in Canada called for by Military Secretary's Letter of 12th October, 1854—*Con.*

Station, No. on Map of Royal Military Estates.	Approximate Contents.	Description of Buildings or Military Works Erected.	How Acquired.	Cost of Purchase. Sterling.	Liabilities or Engagements Affecting the Land.	If Let, the Rent Payable to the Ordnance Sterling.	Remarks.
				£ s. d.	£ s. d.	£ s. d.	No. 2.
27 Navy Island... 28 Fort Erie.....	A. R. P. 304 0 0 1,000 0 0	Site of old Fort .....	Reservation..... Reserve.....	.....	Location of en- rolled pension- ers and a few resumable leases	.....	No. 2.
281 Port Maitland..... 29 Turkey Point.....	426 0 0 592 0 0	For future defence .. Ruins of large Block House, which cost £40,000.	do ..... do .....	.....	.....	.....	No. 2.
30 London.....	74 0 0	Infantry or Artillery barracks.....	do .....	.....	.....	.....	No. 3.
31 Chatham.....	11 3 8	Infantry barracks.....	do .....	.....	.....	.....	No. 2.
32 Round Eau (Lake Erie). Amherstburgh.....	500 0 0 311 0 0	For future defence .. Fort Malden.....	do .....	.....	Location of Pen- sioners. Let for 7 years, resumable.	42 6 7	No. 2.
33 Fighting Island (De- troit River). Windsor.....	212 0 0 1,200 0 0	Bois Blanc Island, Block House and Picket House. Unappropriated .....	do .....	.....	.....	.....	No. 2.
34 Point Edward (San- mar).	4 0 ·640 0 0	Infantry barracks..... Future defence.....	Purchase..... Reserve .....	266 13 4	Let.....	5 6 10	No. 2.
					Large portion un- der License of Occupation;	.....	No. 2.
					greater part re- quired for ter- ritory of Grand Trunk Railway, and ordered to be so disposed of by the Secretary of State.	44 15 9	No. 2.
35 Owen's Sound..... 38 Nottawasaga Bay... 39 Penetanguishene....	51 0 0 66 0 0 4,760 0 15	Part of lot 1, whole of lots 5 and 6, block B. Reserve..... For defence of the river. Barracks, hospital, commissariat store, mag- azine, &c., &c.	do .....	.....	Let resumable..	0 16 5	No. 2.
		At the head of the harbour.....	do .....	.....	Location of pen- sioners.	.....	No. 2.
		Saw and grist mills, with house at Mundy's Bay.	do .....	.....	.....	.....	No. 2.



No. 1.—RETURN of Ordnance Lands in Canada called for by Military Secretary's Letter of 12th October, 1854—*Cot.*

No. on Map of Royal Engineers.	Station.	Approximate Contents.	Description of Buildings or Military Works Erected.	How Acquired.	Cost of Purchase. —Sterling.	Liabilities or Engagements Affecting the Land.	If Let, the Rent Payable to the Ordnance. —Sterling.	Remarks.
40	St. Joseph, with Neebish Islands.	A. R. P.	Unappropriated.....	Reserve .....	£ s. d.	.....	.....	No. 2.
41	St. Mary's Island (Sault Ste. Marie), Lake Huron.	450 0 0	do .....	do .....	.....	.....	.....	No. 2.
42	Bftown.....	170 0 0	Barracks, &c, with five defensible houses on the Rideau Canal.	Purchased .....	750 0 0	(Greater portion forms the site of Barracks and Reserve.	.....	.....
		415 0 0				a rental amounting to .....	1,718 0 0	No. 2.

J. S. ELLIOTT,  
O. S. Headquarters, Canada.



**No. 98.**

FURTHER DOCUMENTS RELATING TO TRANSFER OF ORDNANCE  
LANDS TO GOVERNMENT OF CANADA.

REPORT OF THE COMMISSIONERS APPOINTED TO INVESTIGATE AND REPORT UPON THE  
BEST MEANS OF RE-ORGANIZING THE MILITIA OF CANADA, AND PROVIDING AN  
EFFICIENT AND ECONOMICAL SYSTEM OF PUBLIC DEFENCE, AND TO REPORT  
UPON AN IMPROVED SYSTEM OF POLICE, FOR THE BETTER PRESERVATION OF  
THE PUBLIC PEACE.

[Extract.]

- 10 To His Excellency Sir Edmund Walker Head, Baronet, Governor-General of British North America, and Captain-General and Governor-in-Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c., &c.

ORDNANCE LANDS IN CANADA.

The Commissioners, after an attentive consideration of a despatch from the Secretary of State for the Colonies, which has been brought under their notice, in which an offer is made by the Imperial Government to surrender all the military reserves in the Province, with the exception of such portions of those lands at Kingston, Montreal and Quebec, as are essential to the Military defence of the Colony, 20 in consideration of the Provincial Government making ample provision for the ordinary defence and protection of the province; they are unanimously of opinion that this offer should be accepted; and in order to carry out the conditions, they recommend, with reference to a report made on the subject by the Lieutenant-General commanding the Forces in Canada, that the lands and buildings at the several localities set forth in Schedule G, attached to this report be retained for the purposes of military defence generally.

As however the whole of the lands in the schedule referred to, will not be wanted for purposes of defence, the Commissioners recommend that such portions of these lands as are not so required, together with the remaining ordnance and naval lands 30 in the Province, as set forth in Schedule H. attached to this Report, be sold, and the proceeds applied to form a fund for the general defence of the Province,

ALLAN N. MACNAB.

E. P. TACHÉ,

T. EDMUND CAMPBELL.

GEO. F. DEROTTENBURG.

19th February, 1855.

Report of Committee  
Sir Allan MacNab  
& others

*Canada.*

## SCHEDULE F.

55D.

19th February, 1855.

PROPOSED Localities in the Province for the Establishment of Armouries and Magazines  
for the Armament of the Sedentary Militia.

Proposed Localities for Armouries and Magazines.	Remarks.		
<b>CANADA EAST—</b>			
Quebec .....			
Three Rivers.....	An Armoury and Magazine required to be built.		
Rivière du Loup.....	do	do	do
Sorel.....			
St. Johns.....			
Montreal .....			
<b>CANADA WEST—</b>			
Bytown .....			
Prescott.....			
Kingston .....			
Peterborough .....	An Armoury and Magazine required to be built.		
Toronto.....			
Guelph.....	do	do	do
Hamilton .....	do	do	and a Gun Shed.
London.....			
Chatham .....			



## SCHEDULE G.

SHOWING the Ordnance Lands in Canada which should be retained generally for purposes of Defence, but specifying at what Localities portions of these Lands may be sold.

Localities.	Description of Buildings.	Amount of Acres.	A. R. P.		Remarks.
Sorel and Islands . . . . .	Barrack, Cottage and Seigniory	45,000 0 0			Rented for £875 annually. Greater part may be sold.
Isle aux Noix and South River	Fort . . . . .	295 0 0			Rented for £218 5s.
Coteau du Lac . . . . .	Fort and Barracks . . . . .	15 3 39			
Fort Wellington (Prescott) . . . . .	Fort . . . . .	74 0 0			Rented for £39 10s. 10.
Toronto, Site of Old Fort and New Barracks . . . . .	Old Fort and Barracks . . . . .	502 3 0			Portions may be sold. Site of Old Fort and Barracks to be retained; rented for £80 12s. 6d.
Fort Mississauga, Niagara . . . . .	Fort and Barracks . . . . .	444 2 14			Rented for £59 1s. 8d., portions may be sold.
Reserve at Burlington Bay . . . . .		178 0 0			Under 50 acres.
Land at Short Hills . . . . .		200 0 0			Rented for £47 5s. 2d.
Site of Old Fort Erie . . . . .	Ruins of Fort . . . . .	1,000 0 0			Location of pensioners.
Port Maitland . . . . .		426 0 0			Portions may be sold.
Penetanguishene and Saw and Grist Mills at Mundy's Bay . . . . .	Barracks, Magazine, Reserve, &c	5,396 0 0			Location of pensioners; portions may be sold.
Madawaska . . . . .	Blockhouse . . . . .	243 6 0			
Temiscouata and Little Falls . . . . .	Stockade and Barrack . . . . .	11 2 13			
Laprairie . . . . .	Barrack . . . . .	421 0 8			Revertible to Corporation of Laprairie.
St. Johns . . . . .	Barrack Fort . . . . .	176 0 0			Rented for £84 8s. 3d.
Chateauguay . . . . .	Blockhouse . . . . .	5 0 1			
Chambly . . . . .	Fort and Barracks . . . . .	157 1 22			Rented for £30 15s. 5d.
Phillipspburg . . . . .	Blockhouse . . . . .	0 2 32			
Blockhouses on Ottawa Canals, viz., at Kingston Mills, Jones' Falls, White Fish Dam, Isthmus, Narrows, Merrickville . . . . .					
Site of Fort George, Niagara . . . . .		442 0 0			Portions may be sold.
Queenston . . . . .	Barrack . . . . .	175 0 0			do
Chippewa . . . . .	Barrack . . . . .	19 3 27			
London . . . . .	Barrack . . . . .	74 0 0			Location of pensioners.
Chatham . . . . .	Barracks . . . . .	11 3 8			Let for £42 6s. 7d.
Annerstburgh . . . . .	Fort Malden . . . . .	311 0 0			Location of pensioners.
Isle Bois Blanc . . . . .	3 Blockhouses . . . . .	212 0 0			Let for £44 15s. 9d.
Windsor . . . . .	Barrack . . . . .	4 0 0			Let for £5 6s. 10d.
Point Edward, Sarnia . . . . .		640 0 0			A large portion under license of occupation. Required for terminus of G. T. Railway, and ordered to be so disposed by Secretary of State.
Owen Sound, Sydenham . . . . .		51 0 0			
Nottawasaga Bay . . . . .		66 0 0			
Three Rivers . . . . .	Barrack . . . . .	3 2 0			Required for an Armoury and Magazine.
Bytown . . . . .	Barrack . . . . .	415 0 0			Rented for £1,718. Required for Armoury and Magazine, but portions may be sold.
Total . . . . .		56,375 1 10			

444. 2. 14

442

## SCHEDULE H.

LOCALITIES of Ordnance and Naval Lands in Canada not required for purposes of Defence, and which may be sold.

Localities.	Amount of Acres.	Remarks.
	A. R. P.	
<b>ORDNANCE LANDS.</b>		
Logan's Farm, Montreal.....	115 0 0	Bought for Barracks, and not now required.
Land at Longueuil.....	198 0 0	Bought for site of Tête du Pont ; not now required in consequence of Victoria Bridge being a mile higher up St. Lawrence.
Herchmer's Farm, Kingston.....	180 3 4	Bought for Fortifications ; not now required in the opinion of the Commissioners.
Cedars .....	0 2 0	Revertible to Seigneur.
Cascades .....	9 0 12	do
Cornwall .....	1 0 0	
Cape Vescy, Prince Edward.....	1,260 0 0	
Green Point, Bay of Quinté.....	100 0 0	
Lyons Creek.....	3 1 0	
Navy Island.....	304 0 0	
Turkey Point.....	592 0 0	Ruins of Blockhouse, which cost £40,000.
Rondeau .....	500 0 0	
Fighting Island, Detroit River.....	1,200 0 0	
St. Joseph, with Neebish Island, Lake Huron.....	450 0 0	
Ste. Mary's Island, Lake Huron.....	170 0 0	
<b>NAVAL LANDS.</b>		
Mouths of Grand River .....	219 0 0	
Point-au-Barbet .....	48 2 32	
Baie Mohawk .....	20 0 0	
Penetanguishene .....	389 0 0	Occupied by enrolled Pensioners.
Gwillimbury, Lots 49, 50, 51, 52, Meadow Street.....	4 0 0	
Point Pelee and Island.....	3,000 0 0	
Vespra, County Simcoe, Lot 13, 11th Concession.....	200 0 0	
Island St. Joseph, Lot 1, in 1st and 2nd Concessions.....	500 0 0	
Milford Haven, South half of Lot 6 in 9th Concession .....	106 0 0	
Total.....	9,568 8 48	



REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY  
HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 16TH MARCH,  
1855.

The Committee have had under consideration a memorandum from the Honourable the late Inspector-General, Mr. Hincks, having reference to the proposed transfer to the Provincial Government of Canada of the Ordnance lands.

Mr. Hincks states that while in London in the spring of 1854, he had the honour of having interviews with His Grace the Duke of Newcastle, the Secretary of State for the Colonies, in the course of which His Grace intimated, the probability, that the greater portion of the troops then serving in Canada, would be required for the foreign service; and alluding to the importance of transferring to the Provincial Government the charge of the Barracks and other buildings, the Rideau Canal and Ordnance Lands. That he understood both from the Duke of Newcastle and Sir Charles Trevelyan, with whom he also had interviews on the subject, that with the exception of certain reservations at Quebec and Kingston, and possibly at Montreal, the whole lands and property of the Ordnance would be transferred to the Province subject to the payments of annuities to the pensioners, which had been promised to them as compensation for leaving their locations. That the pensioners at Penetanguishene and Amherstburg were not to be disturbed, but those at Niagara, London and Toronto were to be compelled to leave. That Sir C. Trevelyan stated that, if arrangements could be made for the payment of those annuities, the lands would be transferred, subject only to their payment. That it was doubtful whether the surrender would be made to the cities and towns where the reserves were, or to the Provincial Government, and he could give no positive assurance that the Province would accept the proposal. In case of its refusal he understood that the offer would be made to the towns interested. That he accordingly arranged with the cashier of the Bank of Upper Canada to pay the annuities quarterly to the pensioners, on the assurance that, when the transaction was completed, he would be repaid by the parties to whom the land was transferred, and in case no agreement was made, he, Mr. Hincks was assured by Sir C. Trevelyan, that the Imperial Government would refund the advance. That he also understood that all the lands, whether reserves or purchases, were to be included in the proposed transfer.

In furtherance of the arrangement so entered into by Mr. Hincks with the Bank of Upper Canada, the Committee, in their approved report of the 22nd January last, recommended that the bank be instructed to advance the amount required for the payment of such annuities quarterly, and that such advances, together with the sums already paid by them on that account, should be submitted to Parliament in the Estimates of the present year.

The Committee respectfully submit for the favourable consideration of Your Excellency that the subject of the above memorandum should without further delay



be brought under the notice of the Imperial authorities, with a view to the completion of a transfer of the whole of the Ordnance Lands, as well purchases as reserves, including the Rideau Canal, to the Provincial Government, with the exception of such portions as it may be expedient to retain at the cities of Quebec and Kingston, and, if necessary, at Montreal, on the basis of the arrangement proposed to Mr. Hincks.

(Certified)

JOHN J. McGEE,

*Clerk of the Privy Council.*

DESPATCH FROM THE RIGHT HONOURABLE SIR G. GREY TO GOVERNOR  
SIR EDMUND HEAD.

10

DOWNING STREET, 13th April, 1855.

SIR,—Her Majesty's Government have long had under their consideration the necessity of establishing a clear understanding with the Government of Canada, on the subject of the measures mutually to be taken for the military defence of the province, and the subsidiary arrangements requisite to that end.

2. Although Canada is happily remote from the direct influence of those hostilities in which this country is at present engaged, it becomes now even more necessary than before, that the available military resources of the empire in general, and the purposes to which they are applicable, should be fully ascertained.

3. Relying on the loyalty and patriotism of the inhabitants of Canada, no less than on their rapid advance in all that constitutes the strength of a community, Her Majesty's Government have not scrupled to reduce the military force stationed in the colony in time of peace, much below the amount which in former times had been thought advisable ; and the result of the measures thus taken has hitherto fully justified their experience. The course of events of recent years has more and more fully developed the attachment of the Canadian people to the institutions under which they live ; the gratifying proofs which have been so lately acknowledged by me, of the deep interest which they take in the success of the arms of Great Britain, and her allies, in the present contest, have been strongly felt by all classes throughout these kingdoms ; and it is with a feeling of deep satisfaction, that we are enabled to congratulate ourselves on the union thus cemented between communities, so far severed by local position, but joined by the ties of common freedom, and of loyal attachment to one sovereign.

4. Her Majesty's Government propose to make no change in the principle of the relations now subsisting between this country and the Province, as regards its military defences. The Imperial Government will remain charged, as before, with the supply and maintenance of military force for the defence of Canada, as of every other part of Her Majesty's dominions, in the event of its being menaced by foreign arms. They propose also to continue to maintain the force now existing in Canada, or whatever force may be strictly required for the military occupation of the few



posts of first-class importance, so as to form a nucleus for the defence of the Province.

5. For all beyond this, they propose to rely on the loyalty and military spirit of the Province itself. They are fully aware that if the contingency, now happily remote, should ever occur of an invasion of Canada by foreign arms, the most valuable aid to the reinforcements of troops which could be supplied from this country, would be afforded by the courage and numbers of an organized militia, such as her great population might now enable her to supply; and they are equally persuaded, that if the tranquillity of the community should be menaced from 10 within, the necessary force for the maintenance of order, both civil and military, if the latter should be required, will be best provided for by the Province herself.

6. With respect to the lands now held by the British Government for military purposes, much correspondence has at different times, taken place between this department and the Colonial Government; and I was in hope to have received, before this time, a report from the Province, which Lord Elgin was requested to furnish, classifying these lands in such a manner as might enable Her Majesty's Government to arrive at some positive decision as to their ultimate disposal. Although this report has not yet been received, I have, within the last few days, 20 been placed in possession of a printed "Report of the Commissioners appointed to investigate and report upon the best means of re-organizing the militia of Canada," which goes far towards supplying the deficiency. Having consulted the home authorities in more immediate charge of these lands, I believe that the information in the possession of Her Majesty's Government, is already nearly sufficient to settle the details of the plan, when an agreement has been established as to its outlines.

7. These Ordnance lands are by no means all of them Crown reserves; but, as I find noticed in the documents before me, many of them have been purchased at considerable cost to the Imperial treasury.

8. It is not, however, the intention of Her Majesty's Government to make any 30 distinction between reserves and purchased land; they wish to deal with the entire property solely with a view to the permanent interests of the province.

9. With this view, it appears to them, that the Ordnance lands at Quebec, Montreal and Kingston, should be retained, for purposes of defence, in the hands of the Imperial Government. There may perhaps, be portions of those lands not required for present or future military use, in which case these may be the subject of future arrangement; but of this I cannot, with the information as yet before me, speak with certainty.

10. There is a second class of lands, not situated at these posts, and which will not be permanently occupied by Her Majesty's troops, but which in the opinion of



military judges, will be of importance for the defence of the province, in case of invasion.

On some of them considerable sums have been expended with this view. Lands of this class it is proposed to make over to the Canadian Government for occupation and present use ; but with a stipulation that they shall be kept available for military purposes, together with any buildings really requisite for similar purposes, in case they should be required at any future time for the defence of Canada.

11. There is, lastly, a third class, comprising lands which it is not important to retain for military purposes. These it is proposed to make over at once, and unconditionally, to the Canadian Government.

12. Should your Government think proper to devote the funds which may arise from their sale, or other use, to internal defences, as proposed in the report to which I have referred, Her Majesty's Government would regard such an appropriation of those funds with much satisfaction, but they do not wish to impose it as a condition of the transfer.

13. I have already said that Her Majesty's Government are now in possession of material, which may go a long way towards enabling them to effect this classification ; but it would be more satisfactory if they had your assistance, in such a manner as you may yourself, with the advice of your Executive Council, suggest, towards the settlement of the details.

14. Whenever final instructions on this subject are conveyed, pending questions touching the disposal of military stores, may also be arranged.

15. It is necessary to add that any surrender of these lands by Her Majesty's Government, must of course be subject to existing engagements respecting them, such as those entered into, in some few instances, with pensioners for their location.

I have, &c.,

G. GREY.

30

DESPATCH, SIR EDMUND HEAD TO LORD JOHN RUSSELL.

QUEBEC, May 11th, 1855.

No. 47.

MY LORD,—I have the honour to acknowledge Sir George Grey's despatch of April 13, No. 16, with reference to the Ordnance lands and stores, which appears to me perfectly clear and explicit.

I have laid this despatch before my Council, and I have taken steps for placing it before both branches of the Legislature.

I have moreover, since its receipt, conferred with Lieutenant-General Rowan and with Mr. Elliott, Her Majesty's Ordnance Commissioner at Montreal. The



latter gentleman has furnished me with a copy of the printed report of the Provincial Commissioners, so marked as to show where these gentlemen differ, in their classification of the lands, from the Lieutenant-General and the Commanding Engineer.

I am inclined to think that it will be found expedient, to depute one member of the Canadian Council, to go through the details of this classification, with some one named by the Ordnance, who is conversant with the localities themselves. It would greatly expedite the settlement of these questions, if this conference could take place at home, where differences in detail, involving a principle, might be 10 immediately settled by reference to Her Majesty's advisers, instead of being discussed, as they would necessarily be, backwards and forwards, often one at a time in despatches from myself to the Colonial Secretary.

Should your Lordship approve of this proposal I think it may be found that the visit to Europe, in the present season, of the Honourable John Ross, a member of my Executive Council, will afford facilities for carrying it into effect.

I have, &c.,

EDMUND HEAD.

REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED  
BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 4TH  
20 JUNE, 1855.

(3361.)

The Committee of Council considering that several members of the Administration will soon be in London, have the honour to suggest that Sir Allan McNab, Messrs. Taché, Ross and Cayley, or any one or more of them, on the part of the Provincial Government, be authorized to negotiate with the Imperial authorities, for the projected transfer of the lands, property and stores, now vested in the Principal Officers of Her Majesty's Ordnance, or in the Commissioners for Executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, with power to settle and agree upon the classification of these lands and properties 30 connected with the military and naval defence of Canada, in view of their acceptance by the Province, and future destination, in conformity with the intentions of the Imperial Government; the settlement and agreement above referred to, being, nevertheless, subject to the ratification of the Executive Government of the Province.

(Certified.)

JNO. J. McGEE,

*Clerk of the Privy Council.*



## DESPATCH SIR EDMUND HEAD TO LORD JOHN RUSSELL.

No. 67.

GOVERNMENT HOUSE,  
Quebec, June 4, 1855. }

MY LORD,—With reference to my despatch of the 30th May (No. 62) relating to Ordnance Lands and their classification, I have the honour to enclose a copy of a minute of Council (duly approved) by which the members of the Canadian Council about to visit Europe, are authorized to discuss the details of such classification and arrange the terms of the final agreement, subject to the ratification of the Executive Government in Canada.

Sir Allan McNab and Colonel Taché are already familiar with the subject, having been two of the four commissioners who made the report to which the list of these lands is appended.

I need not call to your lordship's mind the recommendation already made, that some person should conduct the negotiations on the part of the Ordnance, who is thoroughly conversant with the localities themselves. With this view it may, perhaps, be expedient that Her Majesty's Government should allow Mr. Elliott, the Ordnance Commissioner in Canada, to visit England during the present summer.

A packet of papers, which it is essential the Canadian delegates should have in their possession, will be forwarded to the Colonial Office by an early mail, addressed to the Honourable Allan McNab, who will ask for them there.

I have, &amp;c.,

EDMUND HEAD.

## DESPATCH LORD JOHN RUSSELL TO SIR EDMUND HEAD.

No. 41.

DOWNING STREET, 22nd June, 1855.

SIR,—I have to acknowledge receipt of your despatch No. 47 of the 11th May, and to convey to you the approval of Her Majesty's Government, of the arrangement which you propose, with regard to the classification of the Ordnance lands and stores in Canada.

I have also received your despatch No. 67 of the 4th inst, and in compliance with your suggestion, Mr. Elliott, the Ordnance Commissioner in Canada, will be duly authorized to come to this country, for the purpose of conducting the negotiations on the part of Her Majesty's Government.

I have, &amp;c.,

J. RUSSELL.

GOVERNOR SIR E. HEAD, BART., &c., &c.;  
Canada.



## No. 99.

### ORDER IN COUNCIL, CANADA, RESPECTING THE ACCEPTANCE OF TRANSFER AND THE ARRANGEMENTS THEREFOR.

REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCE THE GOVERNOR-GENERAL IN COUNCIL ON THE 25TH JANUARY, 1856.

The Committee have had under consideration, a memorandum, dated 23rd inst., from the Hon. Inspector-General, on the several documents connected with the Ordnance Lands in Canada, the proposed transfer of a portion of them to the Province, the claims of the Military Pensioners thereon, &c., &c.

10 On a careful perusal of the memorandum above submitted, the Committee are of opinion that the suggestions offered by the Inspector-General should be adopted. They accordingly submit for your Excellency's approval:—

1st. That the transfer of the Ordnance Lands, on the basis suggested by the Inspector-General of Fortifications, be now formally accepted; and that a Bill be introduced during the approaching Session of Parliament, in conformity with the Imperial Statute, 18 and 19 Vic., cap. 117, to enable the transfer to be made.

2nd. That a Bill be also introduced to secure to the Military Pensioners the compensation, by way of annuity, to which they are entitled.

3rd. That application be made to the home authorities to permit commutation 20 with all pensioners, on the basis of an annuity allowance, and compensation for improvements, according to the printed conditions of settlement.

4th. That the question of the expediency of placing the enrolled force of pensioners, under the Provincial control, be brought under the notice of the War Department.

5th. That reports be furnished to the Provincial Government, periodically, of the number and general circumstances of the pensioners, viz., where living or located, what allotments of land, whether improved or waste, with or without families, and a quarterly pay-list of those drawing annuities.

6th. A statement to be made of the disbursements, showing the amount advanced. 30 by the Government to this date, and a copy thereof forwarded to the Right Hon. the Secretary of State for the Colonies.

7th. That the entire control of the Rideau Canal be transferred to the Province, concurrently with the transfer of the Ordnance Lands.



**No. 100.**

DOCUMENTS WHICH COMPLETED THE TRANSFER OF LANDS UNDER  
19 VIC., CAP. 45 (CANADA).

DESPATCH FROM COLONEL ORD, COMMANDING ROYAL ENGINEER, CANADA, TO LIEUTENANT-GENERAL SIR J. F. BURGOYNE, INSPECTOR-GENERAL OF FORTIFICATIONS, ADVISING OF PASSAGE OF ACT, AND ASKING INSTRUCTIONS.

*The Commanding Royal Engineer in Canada to the Inspector-General of Fortifications requesting instructions respecting Ordnance Reserves and other properties ceded by the Imperial to the Colonial Government.*

10

ROYAL ENGINEER HEADQUARTERS OFFICE,

No. 113.

MONTREAL, 7th July, 1856.

SIR,—I have the honour to transmit copy of an Act for transferring to one of Her Majesty's Principal Secretaries of State, the powers and estates and property therein described, now vested in the Principal Officers of Her Majesty's Ordnance; and for vesting other parts of the Ordnance estates and property therein described in Her Majesty the Queen, for the benefit, use and purposes of this Province, which has passed into a law, having received the sanction of His Excellency the Governor-General.

And I beg with reference to the circular, Home and Foreign Stations, 5th June, 20 1856, <sup>24<sup>o</sup>, to request, at your earliest convenience, such authority and instructions as the nature of the case may seem to demand, with respect to the actual handing over, finally, to authorities appointed by the Colonial Government, possession of all Ordnance lands ceded under this Act, together with leases or other deeds, by which parties may be bound, in favour of the late Principal Officers of Her Majesty's Ordnance, or the Secretary of State for War.</sup>

I have the honour to be, Sir,

Your most obd't humble servant,

W. R. ORD,

*Col., Com'g Royal Engineer, Canada.*

30 Lt.-General

Sir J. F. BURGOYNE, Bart., G.C.B.,  
&c., &c., &c.

MEM. FOR THE C. R. E., CANADA.

Z.  $\frac{6}{41}$  and Z.  $\frac{6}{44}$

WAR DEPARTMENT,  
PALL MALL, 13th August, 1856.

With reference to the letter of the Respective Officers, at Montreal, dated 7th July, 1856, requesting instructions in regard to the future disposal of the rents derivable from the Bytown property and the Canal lands, addressed to A. Drewry, Esq., and to



the Commanding Royal Engineer's letter, dated 7th July, 1856, requesting instructions respecting Ordnance Reserves and other properties ceded by the Imperial to the Colonial Government, he is informed that, by the Bill, the land in the second Schedule, being directed to be handed over to the Provincial Government, all that is required to be done beyond what the Act directs, is, that an officer at each place should be instructed, to give possession of the lands, to some person to be appointed to receive possession on the part of the Provincial Government.

All deeds, leases and other documents relating to the respective lands, should be handed over in like manner; all rents, &c., are of course included in the handing over from the time of the transfer.

For the I. G. F.,

H. C. OWEN.

**REPORT OF A COMMITTEE OF THE HONOURABLE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 11TH SEPTEMBER, 1856, UNDER WHICH THE ORDNANCE LAND AGENT WAS APPOINTED.**

On the report, dated 10th instant, of the Honourable the Attorney-General for Upper Canada, relative to the expediency of carrying into effect the Statute 18 Vic. cap. 91, and 19 Vic., cap. 45, relating to the transfer of the Ordnance Lands, and Naval and Military Reserves to the Provincial Government, and which report is 20 as follows, viz:—

1st. That in order to commence the formation of a fund to defray the expense of the Provincial militia, it is expedient that immediate steps be taken to lay out, into town lots, the lands in Toronto and London, as being most saleable, and to dispose of the remaining lands (not required for the defence of the province) as speedily as can be done with advantage.

2nd. That for this purpose, a special officer be appointed without delay, who shall have the management of the said lands, and of the sale and disposal thereof, under the direction of His Excellency; such officer to be styled the Ordnance Land Agent, to receive a sufficient salary and to give ample security.

30 3rd. That it shall be the duty of the agent, forthwith, to cause the Ordnance lands at Toronto and London, to be laid out into town lots to the best advantage, and so as to secure the highest price; and to submit the plans of survey and his report thereon, with an estimate of the value of each lot, to His Excellency the Governor-General in Council.

4th. That the said town lots should be offered for sale by auction, (if possible during the present year), but not to be sold under the value placed upon them by the Agent. That the terms of sale should be one-tenth deposit, and the remainder in nine equal annual instalments, with interest on the unpaid balance of the purchase money, but that if sold during the present year, the purchaser should be allowed



until the 1st of May, 1857, for the payment of one-half of the deposit money on paying interest therefor.

5th. That the Agent do further report to His Excellency, with all convenient speed, as to the condition and best mode of disposal of the remaining Ordnance lands, including those attached but not required for the purposes of the Rideau Canal, and that he take charge of the same, and attend to the maintenance and protection of the buildings, fences, and works erected thereon, and that he report on all other matters specially sent to him for that purpose.

6th. That the Agent, with the aid of one or more competent engineers, to be appointed by the Department of Public Works, do further particularly examine and report on the state and condition of the Rideau Canal, the best and most profitable mode of management thereof, and of the water powers belonging to the same; and also to report as to the lands required to be retained for the purposes of the canal.

7th. That the proceeds of all sales of land should be invested by the Receiver-General in Provincial or Municipal Loan Fund Debentures, and that the interest only shall be applied to the maintenance of the militia and police. The deficiency if any, to be included in the annual estimates.

8th. That on the receipt of such reports, the lands to be included in Schedule B., according to the Statutes 18 Vic., cap. 91, sec. 2, and 19 Vic., cap. 45, sec. 8, should be ascertained and determined.

9th. That application should be made to the Imperial Government, for such of the naval reserves as are intended to be transferred, according to the despatch of the Colonial Secretary on that subject.

The committee concur in the above suggestions, and recommend their being carried into effect. They further recommend that the salary of the Ordnance Agent be fixed at five hundred pounds, exclusive of travelling expenses, and that he give security to the extent of 2,500 pounds.

(Certified)

JOHN J. McGEE,

*Clerk, Privy Council.*

30 THE COMMANDING ROYAL ENGINEER IN CANADA, TO THE INSPECTOR-GENERAL OF FORTIFICATIONS, REPORTING UPON THE TRANSFER OF THE ORDNANCE LANDS, RESERVES, &c., TO THE PROVINCIAL GOVERNMENT.

ROYAL ENGINEER Hd. Qr. OFFICE,

No. 136.

MONTRÉAL, 15th November, 1856.

SIR,—I have the honour to report, with reference to your Memorandum of the 13th August, 1856, Z.<sup>6</sup><sub>41</sub> Z.<sup>6</sup><sub>42</sub> that on the 5th instant, I delivered over into the hands of Major William F. Coffin, appointed by Order-in Council, Ordnance Lands Agent of the Province, all such Leases, Plans, Rent Rolls and other documents relating to the

(23 April 1860)

By the 23 Vic - c 2 - the  
advantage lands \$38  
~~total~~ were placed du nobly  
under the crown off your lands  
and especially see Sec 31  
July 2

Ordnance Landed Property, Reserves, Buildings, &c., as are enumerated in the 2nd schedule of the Act of the Provincial Parliament, 19 Vic., Cap. 45, for which I obtained a receipt.

Some idea of the value of the property, may be formed on an examination of the accompanying memorandum.

To prepare, collect and arrange what was necessary for the accomplishment of this important cession of property, has taken up much valuable time, as the documents, generally, were not in my possession, whilst at one station, half a room full, the presence of which was not necessary on the occasion of the transfer, still remain 10 in the storekeeper's charge.

It now, Sir, behoves me to lay before you, as Chief Conservator of the Ordnance Lands, the position of those ceded, and I must request you to excuse my entering into the following details, with many of which you are already well acquainted.

On the 27th November, 1854, I had the honour to transmit with my report, copies of communications from Sir G. Grey, Lord Elgin and Lieut.-General Rowan. The Act of the Provincial Parliament, 18 Vic., cap. 91, was assented to 30th May, 1855, under all of which, the Ordnance Property was to be divided into 3 classes.

Class A, which shall include the portions of lands at Kingston, Montreal and Quebec, to be retained for occupation by Her Majesty's Troops.

20 Another class, denominated B, which shall be retained for the defence of the Province.

And a 3rd class, denominated C, which may be sold "or otherwise used," as to the Governor may seem fit.

The next clause, III, declares that "such portions of Class B, as it shall be deemed necessary by the Governor-General and officer commanding Her Majesty's Troops, to occupy for the defence of the Province in time of peace, shall be so occupied by such forces as shall be, from time to time, selected for that purpose by the Governor-in-Council; and shall be kept in proper order and repair, at the expense of the Province; and any portion of the lands, so retained for the defence of the Province, which it 30 shall not be deemed necessary to occupy as aforesaid, may be leased, or otherwise used, in such manner, as the Governor-in-Council may think most for the advantage of the Province."

Class IV, provides that the "lands and reserves shall be divided into 3 classes, A, B, and C, in such manner as may be agreed upon between the Principal Officers of Her Majesty's Ordnance and the Governor-in-Council."

In order to effect such an arrangement, three gentlemen of the Council, with Mr. Elliott, held conferences in London, which were succeeded by a draft for another Act, to be laid before the Provincial Parliament.

6

In this draft, the original design of the Secretary of State was departed from, and the tripartite arrangements abandoned; two Schedules were to be adopted, and classes A., B. and C., were not even adverted to.

It having been perceived that inconvenience might arise from this circumstance, Clause VIII was introduced into the new Act, which empowers the Governor-in-Council to form a class B of such buildings, or portions of lands or other property, in the 2nd Schedule of this Act, as, from time to time, he may deem fit.

The draft brings the small and dilapidated Fort Mississagua into the category of the few points of the highest importance for the military defences of the country, 10 spoken of by Sir G. Grey; whilst as regards Kingston, it deprives Her Majesty's Troops of certain ordinary essentials which we already possessed.

The Lieut-General Commanding has called for my opinion regarding what should be retained under Class B, the result of which is enclosed. His Excellency concurs generally in this report, and having had conferences with the Governor-General on the subject, I believe he does so too, but the Parliament may still upset such an arrangement if impressed with the idea that the expenditure, in support of a militia, is not met with the advantages that were anticipated.

Such matters however do not fall, I am aware, immediately within my province, but it is necessary I should draw your attention to the circumstances that Her 20 Majesty's troops are occupying Fort Mississagua, St. Johns, Isle aux Noix and New Barracks at Toronto, which now appertain wholly to the Province, and as Class B does not exist, the Province may refuse to keep them in proper order and repair, at its expense.

I would therefore beg the favour of your instructions as to how the ordinary fair-wear repairs are to be charged whilst these posts are occupied by Her Majesty's troops, and whether estimates may be transmitted, as usual, for required improvements, such as restoration of an old Fort or Blockhouse, reconstruction or removal of a magazine, a privy, ball court and the like; awaiting which I shall be careful that the troops in no way suffer.

30

I have the honour to be, Sir,

Your most obedient humble servant,

W. R. ORD,

*Colonel, Commanding Royal Engineer, Canada.*

To Sir J. F. BURGOYNE, Bart., G.C.B.,

&c., &c., &c.

P. S. Copy of a Report of a Committee of the Honourable the Executive Council, dated 10th September, 1856, approved by His Excellency in Council on the following day, is also appended. *Printed at page 378*

As is, also, statement shewing the Ordnance estates, &c., transferred, being a copy 40 of those which passed between the respective parties on the transfer being effected.

W. R. ORD

The result of his opinion does not  
seem to be included

**No. 101.**

BOOK CONTAINING COPY OF LIST TRANSMITTED BY COLONEL ORD  
TO THE INSPECTOR-GENERAL OF FORTIFICATIONS, SHOWING LIST  
OF ORDNANCE ESTATES PURPORTED TO BE TRANSFERRED BY  
COLONEL ORD IN ACCORDANCE WITH 19 VIC., CAP. 45, SCHED. 2, AND  
ALSO COPY OF A RECEIPT FROM COLONEL COFFIN, ORDNANCE  
LAND AGENT, WHICH BOOK ALSO CONTAINS NOTES THEREIN  
IN THE HANDWRITING OF COLONEL COFFIN, (*PRINTED HERE IN  
ITALICS*) UNDER DATE 26<sup>TH</sup> FEBRUARY, 1859, REFERRED TO IN  
EVIDENCE OF MR. B. W. GOSSAGE (IN APPEAL BOOK).



ORDNANCE ESTATES to be transferred in accordance with Cap. 45, the Second Schedule, 19 Vic., showing the Tenure and the Liabilities or Engagements affecting each portion of the property. N.B.—The Original Titles Deeds are deposited in England.

Name of Tenant.	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
Plan to be found with deed.....		TEMISCOUATA .....	11 2 13	Granted by Mr. Jones and Sir J. Caldwell, 1840.
Bk. Sergt. Bell .....	0 6 1	The land round the barracks.....	11 2 13	During pleasure.

Plans and Procs Verbaux with Mr. Ostall, P.L.S. ....		THREE RIVERS.		
		Barrack field and barrack .....	2 3 15	
		Field yard.....	0 3 20	}
			3 2 35	Acquired by conquest.
Sergeant Tolland....	0 1 3	Barrack field and barracks.....	2 3 15	In charge of Bk. Sergt.
		Fuel yard.....	0 3 8	Let for 21 years, from 1st January, 1856.

Messrs. Baptiste & Co. were granted permission, B.O., 30th Sept., 1853, M 1437, to obtain a grant of the water lot in front of the fuel yard, provided no buildings were erected on the proposed wharf, and that the Government have free use of it for landing and embarking troops and military stores.

Documents relating to the Seigniory with Mr. Crebassa at Sorel. ....		SOREL .....	45,220 0 0	
		Islands attached .....	6,770 0 0	}
			51,990 0 0	By purchase in 1770. Exclusive of the land required for defence.

Rent rolls of town and country lots attached.

No plan at present. ....		LAPRAIRIE.....	42 1 8	Reserved deeds, dated 30th June, 1843. J. Guy, Notary.
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To revert to the trustees of the Common, when not required for military purposes.

		Barracks for cavalry, artillery and infantry, &c. ....	42 1 8	In charge of Bk. Sergt.
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Plan and Procs Verbal with Mr. Ostall not yet completed. To be found in No. 1 lease.....		SAINT JOHNS. ....	128 1 33	Part by conquest, and 18 acres by deed of exchange with Mr. Grant, 26th Nov., 1841.
Nelson Mott.....	79 3 0	Described on plan endorsed on lease.....	43 0 0	From year to year, renewable lease herewith.
Barrack-Sergt. Wise V. Titus.....	10 0 0	Land and small wooden building .....	2 2 4	Let for 7 years, from September, 1854.
Edw. Gettings.....	0 6 1	Garden ground.....	0 6 2	Held from year to year.
do.....	3 0 0	Lot of land.....	6 2 0	do
	4 10 3	Exercising field.....	7 0 0	From year to year.
	8 5 0	Garden ground.....	62 3 29	Lease herewith from year to year.
		Barracks, &c., with ball practice ground	128 1 33	Occupied by the Royal Canadian Rifles.



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rent per Annum. —Currency.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
No plan at present . . . . .		ISLE AUX NOIX . . . . .	150 0 0	By conquest.
Mrs. McGillivray . . . . .	0 1 3	Fort Lenox . . . . .		Occupied by the Royal C. R. Regt.
James Sheridan . . . . .	0 1 3	Dwelling house . . . . .		Quit rent.
do . . . . .	0 1 3	Building for storage of tools & materials . . . . .		The party is contractor for works and repairs under the Royal Engineer Department.
Mrs. Hackett . . . . .	0 1 3	Dwelling house . . . . .		The occupant washes the Barrack bedding.
Henry Hatchett . . . . .	0 1 3	Slaughter house . . . . .		The party is beef contractor.
Plan and Procès Verbal with Mr. Ostell . . . . .		SOUTH RIVER . . . . .	135 2 5	145 arpents by purchase. Deed of Sale, 29th Oct., 1819.
Toussaint Martin . . . . .	2 8 8		135 2 5	Let for 7 years from 1st November, 1853.
Plan and Procès Verbal with Mr. Ostell . . . . .		CHAMBLY . . . . .	154 0 0	By conquest.
		Bar'ck Masters house . . . . .	3 1 22	By purchase. Deed of Sale, 6th May, 1814, and commuted in 1845.
			157 1 22	
John Yule . . . . .	0 1 3	Encroachment by fence . . . . .		Quit rent.
Noel Lether . . . . .	0 1 3	Cottage and garden . . . . .		do
Thomas Lacroix . . . . .	0 1 3	Piece of land . . . . .	1 2 0	do
William Murray . . . . .	0 1 3	Cottage and garden . . . . .		do
Patrick Hanlan . . . . .	0 1 3	House and land rear No. 3 Lock . . . . .		do
Incumbent & Church Wardens . . . . .	0 1 3	Pasture land . . . . .	3 0 35	Lease herewith from year to year.
do . . . . .	0 1 3	Encroachment, car- riage shed . . . . .		Quit rent.
John Watts . . . . .	0 1 3	Cottage and garden . . . . .		do
Municipality Cham- bly . . . . .	0 1 3	Board walk across reserve . . . . .		do
Mrs. Hato . . . . .	21 0 0	Commissariat Quar's . . . . .		Let to 30th April, 1858.
Noel Darche . . . . .	4 7 6	Portion of reserve . . . . .	25 0 0	Let to 30th Nov., 1859.
Thomas Rowan . . . . .	6 0 0	House and land . . . . .		3 or 7 years, from 1st May, 1855.
John Donnelly . . . . .	2 3 0	Engineer field . . . . .	1 1 1	4 years, from 1st May, 1856.
Colonel Austin . . . . .	1 5 0	Commissariat bakery used as a Registry Office . . . . .		
Peter Guestin . . . . .	11 19 10	Part of reserve . . . . .	19 0 0	Let from year to year. 21 years, from 1st May, 1856.
		Chambly Canal: por- tions occupied by the Board of Works . . . . .		Proposed to be ceded to the Provincial Govern- ment in 1851. The quantity of land required was approved by letter from Public Works, Toronto, dated 16th July, 1851.
		Old Fort, Barracks for Cavalry and Infantry . . . . .		In charge of Barrack Sergeant.
Rev. Mr. Brathwaite	7 12 6	Parade Ground, Cav- alry Barracks . . . . .	12 0 0	
		Barrack Masters House . . . . .	3 1 22	do do
Plan with deed . . . . .		GHATEAUGUAY . . . . .	5 0 1	Purchased in 1839 and commuted in 1845.
		Block House, &c . . . . .	5 0 1	In charge of a caretaker.



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rent per Annum. —Currency.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
Plan and Procès Verbal with Mr. Ostell .....		CASCADES..... Wood yard, common and canal.....	9 0 12 9 0 12	By conquest, and under warrant 14th Oct., 1808. Vacant. Canal not used.
do .....		CEDARS..... Storehouse and wharf &c.....	0 2 23 0 2 23	By conquest. Vacant.
do .....		COTEAU DU LAO..... Old Fort, including barracks.....	7 2 36	By conquest.
		Outside the Fort, including Commandant's Quarters .....	8 1 3	10 arpents purchased from Hon. Wm. Campbell. Deed of Sale, 19th February, 1814.
			15 3 39	
Church Wardens....	0 5 0	Storehouse used as Church. ....		Quit rent.
Plan herewith, No. 29.....		CORNWALL.....	1 0 0	Reservation vacant, used as a fuel yard in 1838.
Plan herewith requires adjustment to a recent survey not yet completed, No. 28.....				
J. D. Murphy.....	7 10 0	PREScott..... Part of Military Reserve.....	87 1 6 8 0 0	Purchased from Edward Jessup. Deed of Sale 12th July, 1822. Let from year to year. Copy of lease herewith, No. 5.
A. Gerald.....	6 5 0	do .....		do ..... do ..... No. 6.
Eytown and Prescott Railway.....	20 0 0	Described in plan endorsed on lease.....		Let for 1 year, renewable from 1st Jan., 1855. Lease herewith, No. 7.
A. McMillan.....	7 10 0	Part of Military Reserve.....	33 0 0	Let from year to year. Lease herewith, No. 8.
A. McFaul.....	4 2 6	do .....	8 0 0	do ..... No. 9.
John Jordan.....	8 10 0	do .....	3 1 1	
Thomas Torr.....	6 0 0	do .....	0 3 2	Let from year to year, from 1st April, 1845. Lease herewith, No. 10.
John Beatty.....	8 5 0	do .....	1 0 20	Let for 21 years, from 1st Jan., 1854. Lease herewith, No. 11.
Plan herewith, No. 27.....		GRANT'S ISLAND, opposite Brockville..	0 2 32	Reservation. Block houses built in 1838.
Plan herewith No. 25, and shown on leases .....		KINGSTON. Lot 23 or Herchmer's Farm.....	180 3 4	Purchased from the Rev. Wm. Herchmer in 1841.
John Duff.....	35 6 0	do .....	156 0 0	Lease herewith for 21 years from 1st May, 1851. No. 12.



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rept per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
John Duff . . . . .	6 3 10	KINGSTON—Con. Farm . . . . .	24 3 4	Lease, herewith, for 21 years from 1st May, 1851. No. 13.
Rev. Wm. Herchmer	1 0 0	Beach in front Herchmer's Farm. . . . .	180 3 4	Yearly tenant, no lease.
		Gore between lots 23 and 24. . . . .	11 2 10 11 1 31	Purchased in 1840. do between 1838 and 1840.
		Part of lot 24. . . . .	23 0 1	
John Duff. . . . .	18 4 1	do . . . . .	18 0 33	Lease, herewith, for 21 years, from 1st May, 1851. No. 14.
William Swift. . . . .	0 12 0	do . . . . .	2 1 23	Lease, herewith, for 10 years, from 1st May, 1851. No. 15.
James Wadsworth. . . . .	1 19 0	do . . . . .	1 3 32 <sub>1/2</sub>	Lease, herewith, for 10 years, from the 1st May, 1851. No. 16.
		Streets, &c. . . . .	0 1 32	
		Part of lot 24, Cartwright's field. . . . .	23 0 1	
George Robbs. . . . .	30 0 0	Part of lot No. 24, Cassidy's and Kirkpatrick's fields. . . . .	15 0 0 15 0 0	Purchased 1833 and 1840. Lease, herewith, for 7 years from 1st Oct., 1853. No. 18.
		do . . . . .	6 2 8	Acquired in exchange for land at Mississagua Point.
House of Industry. . . . .	2 18 0	do . . . . .	6 2 8	Lease, herewith, for 10 years, from 1st May, 1851. No. 17.
		Lots 19, 21, 22 Place D'Armes . . . . .	0 2 0	Reservation.
A. Chambers. . . . .	12 0 0	Lot 19 Place D'Armes 21, 22 do . . . . .	0 0 16 0 1 24	Yearly tenant. Commissariat fuel yard.
		do . . . . .	0 2 0	
		Lots 23, 24, 25 do . . . . .	0 2 16	Purchased in 1832.
		23 do . . . . .	0 0 32	Barrack office.
		24, 25 do . . . . .	0 1 24	Commissariat fuel yard.
			0 2 16	
		Late Commandant's Quarters and Old Brewery. . . . .	3 1 0	Purchased by the Admiralty in 1813, and afterwards surrendered to the Military authorities.
		Lot 286. . . . .	0 1 24	Purchased in 1813.
		382. . . . .	0 0 32	Placed at the disposal of the Military auth-
		413. . . . .	0 0 32	rities by Order in Council, 29th Dec., 1841.
			4 0 8	
William Brewster. . . . .	3 0 0	Late Commandant's Quarters. . . . .	2 1 34	Occupied by two officers.
J. Hilliard. . . . .	1 15 0	Old Brewery. . . . .	0 3 6	Lease for 10 years, from 1st May, 1851. No. 19.
Lt.-Col. Hon. R. Rollo. . . . .	0 15 0	Lot 286. . . . .	0 1 24	Let for 7, 14 or 21 years, from 1st May, 1855.
		382. . . . .	0 0 32	Lease, herewith, incomplete No. 20.
		413. . . . .	0 0 32	No lease. Let from 1st May, 1856, from year to year.
			4 0 8	Unoccupied, but claimed by R. Jackson.



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.	KINGSTON—Con.	A. R. P.	
		Old Tannery.....	3 1 5	Purchased in 1829.
Geo. Robbs.....		do .....	3 1 5	
		Ferguson property..	44 3 17	Lease, herewith, for 21 years, from 1st Dec., 1852, No. 21.
		Part occupied by Mrs. Farly.....	20 3 2	Escheated to the Crown, on the demise of Mrs. Ferguson, who died intestate and without issue. Patent applied for 14th February, 1853. Not yet issued.
John Hilliard.....	{ 10 12 6 14 16 4 8 18 4 }	Part formerly J. W. Kerr's .....	{ 5 0 0 8 1 35 5 0 15 }	{ Let for 7, 14 or 21 years from 1st May, 1855. Lease, herewith, incomplete. No rent paid for the last summer in consequence of the boundary being undefined.
		Village lots unoccupied.....	1 3 5	
			41 0 17	
			3 3 0	
			44 3 17	A difference in the land to J. Hilliard.
Plan herewith, No.23.....		Horse Shoe Island ..	110 0 0	Reservation held under licenses of occupation, to be surrendered for Military purposes when required, on indemnifying the present occupants.
Plan herewith, No. 2 Surveyed by Mr. T. F. Gibbs, from whom a copy of the plan can be obtained.....		Snake Island .....	1 0 0	Reservation.
		Kingston Mills.....	100 0 0	100 acres appears to be a clerical error.
The Kingston Mills or Navy Reserve contains about 1,000 acres, a great portion of which is flooded or drowned by the works of the Rideau Canal. It was transferred by the Navy in 1836 to the Ordnance, and does not appear in the schedule to the Admiralty Vesting Act, 14 and 15 Vict., cap. 67. There are several claims from individuals in regard to the boundary of this Reserve, and the conflicting nature of which require this subject to be submitted for the opinion of the highest Law Officers of the Crown.				
148 acres 2 rods 30 perches, exclusive of drowned land, have been considered as attached to the Rideau Canal, leaving about 500 acres on which the following tenants are located :				
Thomas Burrows.....	1 10 0		28 1 8	Lease herewith from year to year. No. 22.
William Blessing.....	15 3 8		84 1 0	do No. 23.
Patrick Deane .....	1 15 0		30 3 2	do No. 24.
Dr. F. Mahony.....	1 15 0		10 2 23	do No. 25.
F. O'Reilley.....	2 0 0		18 3 14	do No. 26.
Ellen Crowley .....	2 0 0		24 0 26	do No. 27.
		Grand Trunk Rail-way Co. .....	12 0 0	Deed not executed.
15 acres were authorized to be sold. B.O. 27th January, 1854, M. 1585, to the railway company, 5 acres of which are on the land attached to the Rideau Canal.				
Lockmaster Brady .....	2 0 0		8 0 0	No lease.
Plan herewith, No.21.....		CAPE VESEY, P. Edward Co. ....	1,260 0 0	Reservation.
Supposed to be under license of occupation, to be surrendered for Military purposes when required on indemnifying the present occupants.				
No plan .....		GREEN POINT, Bay of Quinté .....	100 0 0	Reservation.
Plan herewith, No.20.....		TORONTO.	502 2 1	
		Reserve west of the City, Old Fort, New Barracks.....	487 0 0	



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.	TORONTO—Con.	A. R. P.	
		Lots Nos. 9, 10, 11, Bathurst Street Barracks.....	3 0 11	Reservation.
		Lots Nos. 19 and 20, Wellington Place .....	1 0 0	
		Commissariat Stores, Guard House .....	1 3 0	
		Royal Engineer Office, &c.....	3 2 10	
		Victoria Square.....	6 0 20	In which churches may hereafter be erected, but without grounds attached thereto.
			502 2 1	
		New Barracks Hospital .....		Occupied by the Royal Canadian Rifles.
		Old Fort .....		Buildings partially occupied by the Provincial Government. Order 13th June, 1855.
Lunatic Asylum.....	0 1 3	Fences round Engine house .....		Encroachment.
T. Baines.....	1 0 0	Part of Reserve on Queen st.....	1 0 0	Quit rent. Lease herewith. Nos. 27 & 28.
John Duffy.....	9 1 3	S.W. angle of Reserve	18 0 20	Let from year to year. Lease with the Solicitor, Mr. Philpotts.
Corporation.....	0 1 3	Part of Reserve for Corporation.....	287 0 0	Lease herewith for 999 years. No. 28.

The conditions of this lease have not been fulfilled. The parties warned, and the lease may be considered null and void.

Mr. Farr.....	0 1 3	Part of Creek, Queen st.....	0 0 24	Lease herewith for 21 years, from 1st Jan., 1854. No. 29.
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In consequence of the corporation not having fulfilled their agreement, the following railway companies have been permitted to occupy portions of the reserve: Ontario, Simcoe and Huron or Northern Railway. B.O. 21st June, 1852, O. 227\* and 3rd January, 1853, T. 592.\* No deed executed.

## GRAND TRUNK RAILWAY.

The manner of the occupation of the ground by the Grand Trunk Railway Company is wholly unauthorized. See Order, 16th September, 1856 <sup>240</sup>.

## GREAT WESTERN RAILWAY.

1,747 acres have been sold to the Great Western Railway Company. Order, 5th January, 1856, <sup>240</sup>. Deed of Sale transmitted to England for execution.

		TORONTO.		
		Lot No. 9, Bathurst Street Barracks.....	1 0 11	Occupied by pensioners.
Lieut. Col. Tulloch..	0 1 3	Lots 10 and 11.....	2 0 0	Paid as acknowledgment.
		Lots 19 and 20, Wellington St.....	1 0 0	Occupied by Prov. Govt. Order 13th June, 1855.
		Commissariat Stores, Guard House .....	1 3 0	
		Royal Engineer Office.....	3 2 10	Occupied by the esplanade contractors on

the part of the corporation, and proposed to be surrendered to the latter in accordance with a report of Committee in Council, dated 17th November, 1853, and Governor's Secretary's letter, 30th November, 1853, viz.: "That the corporation will guarantee the payment of a sum of money to be hereafter determined upon, which shall be expended in constructing works of defence for the protection of the harbour."

Charles Daly..... 0 5 0 Victoria Square..... 6 0 20 Quit rent. No lease.

[The following notes are in the handwriting of the late Colonel Coffin, evidently added after the book came to him]:—

\* Wrong dates. Correct date, 2nd Feb., 1852. M. 1148.

+ 23rd November?



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
Plan herewith, No.19		BURLINGTON HEIGHTS	178 0 0	Reservation.
The Great Western Railway		Occupies about.....	25 0 0	B.O. 4th August, 1848. E. 1262. No deed or lease executed.
Hamilton and Toronto (now Great Western).		do .....	10 0 0	No deed or lease executed.
Desjardins' Canal.		do .....	5 0 0	B.O. 1846, E. 1254. No deed or lease executed.
Sir Allan McNab	occupies about 50 acres under a license of occupation. The remainder is supposed to be unappropriated.			
Plan herewith, No.18		SHORT HILLS FARM.	200 0 0	Purchased in 1827.
Robert Richards	70 0 0	Lots 5 and 6 in con. 6 Township of Pelham Welland County....	200 0 0	Let from year to year, from 1st May, 1856.
Plan herewith, No.17		NIAGARA.....	438 2 14	
		Garrison Reserve, ruins of Fort George, Butler's Barracks..	374 0 0	Reservation 1796.
		Mississauga Reserve, Fortifications, Royal Engineer premises.	66 2 14	Part reservation, and part acquired in exchange for lands from Mr. Crooks.
		Block of land in town	4 0 0	Reservation 1796.
			444 2 14	
		Lots 79, 80, 89 and 90	4 0 0	Patent 17th October, 1854.
			448 2 14	
		Deduct for Fort Mis- sissauga, as contain- ed in No. 1 schedule	10 0 0	
			438 2 14	
		Butler's Barracks, &c.		Occupied by Pensioners.
		Barrack Master's House.....		
John Meneilley	5 9 6	Old Fort George.....	8 0 0	Barrack Sergeant. Tenant at will. In occupation since 1847. Lease herewith. No. 31.
do	0 5 0	Small house and land		Encroachment.
A. Heron	0 5 0	Upper Ferry House.....		do
Proprietor of the Ni- agara Docks	0 1 3	Lots 13, 14 and part of 15.....	5 2 9	To be leased for 999 years. Order 29th Sept., 1855, S. 154. Lease in course of preparation.
James Arthur	3 11 0	Guard House on Beach.....		Let from year to year, from 1st Sept., 1849. Lease herewith. No. 32.
James Baxter	6 0 0	Old Engineer Quar- ters .....		Let from year to year, from 1st Nov., 1849. Lease herewith. No. 33.
Representatives of the late H. Boomer.	16 0 0	Old Engineer Office.....		Lease herewith for 7 years, from 1st Feb. 1854. No. 34.
Eliz. Mackie	0 5 0	House, formerly Mas- ter Carpenter's.....		Encroachment.
Elijah O'Neill	0 5 0	Old Engineer Work- shops .....		do
A. Heron	0 5 0	Lower Ferry House.....		do

$$\begin{array}{r} 374 \\ \times 66 \\ \hline 224 \\ 224 \\ \hline 2482 \end{array}$$

## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
NIAGARA River.*				
The Chain Reserve along the Bank of the River Niagara, between Niagara and Fort Erie, excepting the two portions above and below the Falls already surrendered to the Provincial Government by deed, 1st Oct., 1852.				
Brantford & Buffalo Railway.....		Lot 2, Township of Bertie.....		B.O. 31st May, 1852. S. 92. No deed or lease executed.
J. Russell .....	3 0 0	Wharf.....		Let from year to year.
Various parties, Mr. Douglass, Mr. Stanton, Mr. Lewis and Mr. Thornhill, have applied for the water frontage near their property, and Order 5th Nov., 1855, M. 3292, authorized Mr. Douglass to be granted a lease of the water frontage near his property, on payment of £1 per annum, or any other party preferring a similar request.				
Plan herewith, No. 16 .....		QUEENSTON..... Deduct to Hamilton Estate.....	135 1 0 24 1 0 <hr/> 111 0 0	Reservation.
J. Sullivan.....	0 12 2	Old Cook House.....		Let from year to year, since Dec., 1848. Lease herewith. No. 35.
M. Hunter.....	0 12 2	Old Ferry House.....		Let from year to year, since Dec., 1848. Lease herewith. No. 36.
J. Kittson.....	0 5 0	N.E. angle of Reserve		Encroachment.
Widow Fennimore..	0 5 0	S.E. do		do
Chas. Secord.....	0 5 0	Pasturage west of Hospital.....		do
Widow Pendagrass..	0 5 0	Small house near Barracks.....		do
Suspension Bridge Company .....				No lease executed.
3 acres and 8 perches were authorized, B.O. 28th August, 1850, T. 403, to be leased to the company at £1 currency per annum. Plan and description for the lease were forwarded to the President of the Company, 24th July, 1851, but never returned.				
Plan herewith, No. 15 .....		LYON'S CREEK.....	3 1 0	Reservation.
Plan herewith, No. 14 .....		CHIPPEWA .....	19 3 29	
		Reserve Barracks and Store.....	15 0 11	
		Island formed by Welland Canal.....	4 3 18	
			19 3 29	
Mr. Donohue.....	21 0 0	Barrack with land...	15 0 0	Lease expired 1st April, 1855. Still occupied. Lease herewith. No. 37.
No plan .....		NAVY ISLAND.....		Crown Reserve at present under license of occupation, to be surrendered for military purposes when required.
No plan .....		FORT ERIE.....	940 2 13	Reservation.

The whole occupied by the enrolled pensioners, with exception of thirteen acres by the Brantford and Buffalo Railway Company. B.O., 31st May, 1852. S. 952. No deed or lease executed.

\*NOTE.—The word "River" is in the handwriting of the late Col. Coffin, and was evidently added after the book came to him.—Defendants' Solicitors.



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Continued.

Name of Tenant.	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
Plan herewith, No. 12 .....		PORT MAITLAND ....	426 0 0	Reservation.
Plan herewith, No. 11 .....		TURKEY POINT.....	592 0 0	Reservation.
The Reserve was much larger, but was restricted to 592 acres. B.O., 21st June, 1852. M 1324, and for which a patent was applied, 16th August, 1852, and 8th February, 1853, on Order in Council 10th March, 1852.				
Plan herewith, No. 10 .....		LONDON .....	73 2 35	Reservation by Order in Council, 6th April, 1839, and 24th Sept., 1840. Occupied by pensioners.
		Barracks, &c .....		
Plan herewith, No. 9 .....	51 10 0	CHATHAM .....	11 3 8	Reservation.
Allan Coutts.....		Barracks and land..	11 3 8	Lease herewith for 7 years, from 1st January, 1854. No. 38.
Plan herewith, No. 8 .....		ROND D'EAU.....	500 0 0	Reservation.
Plan herewith, No. 6 .....		AMHERSTBURGH.....	311 0 0	
		Bois Blanc Island .....	212 0 0	
			523 0 0	Reservation.
The whole in occupation of enrolled pensioners, with exception at present of the following tenants, whose lands revert to the pensioners when vacated. B. O. 5th March, 1853. W 521.				
G. Arvison.....	10 0 0	Garden Ground.....	0 1 20	Lease for 21 years, from 8th April, 1845. No. 39.
Sergeant Archer .....	10 0 0	Lot of land.....	0 1 16	Originally 2 roods, 19 perches, let for 7 years, from 1st May, 1845. Continued reduced occupancy authorized. Former lease herewith. No. 40.
Thos. Salmoni.....	35 0 0	Water lot.....		Lease herewith for 21 years, from 1st Jan., 1854. No. 41.
		Bois Blanc Island .....		
Jas. Cousins.....	5 0 0	Lot of land.....	20 0 0	Let from year to year. Lease herewith. No. 42.
J. Hackett.....	4 0 0	Cottage and land near Lighthouse .....	6 0 0	do No. 43.
Plan herewith, No. 30 .....		FIGHTING ISLAND....	1,203 0 0	Reservation.
Plan herewith, No. 5 .....		WINDSOR.....	4 0 0	Purchased from Messrs. W. T. Halo and J. Woods, 4th Dec., 1839.
Municipality of Windsor.....	6 10 0	Barrack premises .....	4 0 0	Let for 21 years, from 1st Dec., 1854. Lease herewith, incomplete. No. 44.
Plan on lease .....		POINT EDWARD, Sarnia.....	686 0 0	Reservation.
		Deduct, sold to contractors for the Grand Trunk Railway Company....	664 1 0	
			41 3 0	



## ORDNANCE ESTATES to be transferred in accordance with Cap. 45, &amp;c.—Concluded.

Name of Tenant.	Rent per Annum.	Description of Property.	Contents.	Remarks.
	£ s. d.		A. R. P.	
Messrs. C. S. Gzowski, <i>et al.</i> .....	10 0 0	POINT EDWARD, Sarria— <i>Con.</i> Described on plan endorsed on lease....	41 3 0	Lease herewith for 30 years, from 24th July, 1856. No. 45.
Surveyed by Mr. Chas. Rankin, D.P.S., from whom a copy of the plan may be obtained .....		OWEN SOUND..... S. W. $\frac{1}{2}$ Lot 1, Block B..... Lots 5 and 6 Block B	18 3 34 $\frac{1}{2}$ 32 2 10 $\frac{1}{2}$  51 2 4 $\frac{1}{2}$	Reservation.  Patent dated 4th June, 1848.
Plan herewith, No. 3 Dr. W. Rees.....		NOTTAWASAGA BAY.. Lot 27, con. 9, Township of Flos.....	66 0 0	Reservation. Patent dated 6th Sept., 1848. 130 acres, should be 66 acres, let for 50 years, from 1st July, 1849. Lease herewith. No. 30.
		PENETANGUISHENE ..	5,896 2 15	Reservation. Considered in occupation of enrolled pensioners pending an application made to Colonel Tulloch on the subject.
Surveyed by Mr. T. N. Molesworth, from whom a copy may be obtained.....		SAINT JOSEPH ISL'ND	910 0 0	Reservation.
		Reserve No. 1.....	200 0 0	Is almost wholly comprised within the limits of the Naval Reserve No. 7, in the Schedule to the Admiralty Vesting Act, 14 and 15 Vic., cap. 67.
		do 2..... do 3.....	73 2 0 199 2 0  473 0 0	
		Biquabigony Island and small island attached .....	437 0 0 910 0 0	Not mentioned in the second Schedule. Was laid off by Mr. T. N. Molesworth, P.L.S., at the same time that he made the survey for the Provincial Government, 1853.
No plan.....		SAINT MARY'S ISLAND	170 0 0	Reservation. Patent dated 14th March, 1853.
Documents relating to the canals with Mr. Monsell, Store-keeper at Ottawa.....		RIEDEAU AND OTTAWA CANALS.....		
27 plans herewith..... Plans and Proces Verbal by Mr. A. Swallow, D.P.S., are deposited in the Crown Land Office.....		Rideau Canal lands.. Ottawa Canal lands..	23,409 0 9 468 1 10	Rent roll attached. No plan of Lower Bytown.



*Recd Wm F. Coffin, Esq., O.L.A. 395*

Delivered over to William F. Coffin, Esquire, Ordnance Land Agent, the property as above described, this day, in accordance with the Act.

W. R. ORD,  
Colonel, Commanding Royal Engineer.

Montreal, 5th November, 1856.

Received from the Commanding Royal Engineer, Canada, the several Leases mentioned in this Return, numbered in red ink from 1 to 46 inclusive, also 21 plans of the different stations, and 27 plans of the Rideau Canal, together with the rent rolls of the country and town lots in the Seigniory of Sorel, and the list of all 10 tenants of property at the Rideau and Ottawa Canals, including the Bytown Estate, in accordance with the provisions of "Ordnance Estates Transfer Act," cap. 45, Vic. 19.

WILLIAM F. COFFIN,

Montreal, 5th November, 1856.

Ordnance Lands Agent.

*Approximate Revenue derived from the Lands proposed to be transferred to the Provincial Government.*

	Currency.
Lands of the Rideau and Ottawa Canals.....	£2,600
Tolls of do do .....	2,500 { <small>Already transferred.</small>
Seigniory of Sorel.....	500
20 Remainder of lands.....	655
	<hr/>
	£6,255

Total Acreage.

60,000 exclusive.....	$\left\{ \begin{array}{l} \text{Fort Erie.....} \\ \text{Amherstburgh .....} \\ \text{Penetanguishene ....} \end{array} \right\}$	Occupied by pensioners.
23,877 on the Rideau and Ottawa Canals.		

30      83,877 acres proposed to be transferred.

Value.		
£260,000 exclusive..	$\left\{ \begin{array}{l} \text{Cascades} \\ \text{Cedars} \\ \text{Coteau du Lac, part of,} \\ \text{Grant's Island} \\ \text{Snake Island} \\ \text{Horse Shoe Island} \end{array} \right\}$	Cape Vesey Green Point Navy Island Port Maitland Turkey Point Rond'Eau.
	80,000 Rideau and Ottawa Canals.	
	<hr/>	
	£340,000 currency.	



## COFFIN.

(The following appears in pencil in the hand-writing of the late Colonel Coffin.)

26th February, 1859.

Queenston—Visited land on front occupied by John Ryan, John Donovan, Thomas Hands, widow Hunter and John Ryan. Directed Mr. Gossage to lay off the lots they hold as they actually are, also such convenient additions as will best dispose of the contiguous land.

John Ryan married widow Sullivan, widow of former lessee. Thomas Hands married widow Pendergrass.

- 10 Visited fishing stations about half a mile up River Niagara. Directed Gossage to set them off.

(See Secord, Niagara, as to his claim and title.)

Also saw Wynn about 15 acre field, and his own plot in Reserve.

Two reaches or bends below Queenston to be set off as fishing stations.

At the Falls. Lot in front of Barrack, and others. Right of Ferry.

Notice to be given not to trespass on so much of the Chain Reserve as is not occupied by the Turnpike Road, nor on the face of the cliff, nor on the beach at the foot of the cliff, nor to cut or remove timber, and to remove all buildings.

Fishing stations above Suspension Bridge to be set off by Gossage, P. L. Surveyor.

- 20 Lawrence's lot not to be hastily disposed of.

Ferry at Falls of Niagara. Value supposed, £300 per annum. In whom right to lease same? In Government or municipality. Vide Act.

27th February.

Town of Niagara.

	Commandant's Quarters.....	\$100
	Hospital.....	100
	Commissariat Quarters.....	60
	Barrack Master's Quarters.....	60
	Officers' Quarters .....	60
30	Butler Barracks.	
	Engineers' Quarters.	

Colonel Coffin was thus assuming  
to look after - all except the  
Turnpike Road

**No. 102.**

EXTRACT FROM A RETURN OF THE SEVERAL ORDNANCE PROPERTIES  
AND MILITARY RESERVES APPEARING IN APPENDIX TO JOUR-  
NALS OF CANADA.

*From the Appendix No. 20, to the 15th Volume of the Journals of the Legislative Assembly  
of the Province of Canada, Session 1857.*

## CANADA.

RETURN of the several Ordnance Properties and Military Reserves, shewing their approximate contents, exclusive of the lands attached to the Rideau Canal.  
10 Those ascertained by recent surveys are marked thus\*.

No.	Stations.	Contents.	Remarks.
		A. R. P.	
14	Fort Erie.....	1,000 0 0	
15	Chippewa*.....	19 3 9	
16	Lyon's Creek.....	3 0 0	
17	Navy Island.....		Crown Reserve, at present under license of occupation, to be surrendered for military purposes when required.
18	Queenston .....	175 0 0	
19	Niagara*.....	446 3 0	
20	Chain Reserve along the bank of the River Niagara and Fort Erie, excepting the two portions above and below the Falls, surrendered to the Provincial Government, dated 1st Oct., 1852.....		

\* \* \* \* \*

J. S. ELLIOTT,

*Ordnance Storekeeper, &c.*

**No. 103.**

EXTRACT FROM REPORT OF COLONEL COFFIN TO THE COMMISSIONER  
OF CROWN LANDS, RESPECTING THE ORDNANCE LANDS.

*As contained in the Appendix to the Report of the Commissioner of Crown Lands, being  
Appendix No. 17, Journals of Canada, Vol. 17, No. 3, Sub-Appendix X.*

OTTAWA, 2nd February, 1859.

To the Honourable

The Commissioner of Crown Lands.

20 SIR,—I have the honour to lay before you a statement setting forth, at length, a description of the various Ordnance properties in Upper and Lower Canada,



acquired by the Province under the Act 19 and 20 Vic., cap. 45 (19th June, 1856), their actual and their probable future value, the manner in which they have been or may be disposed of, and the purposes to which they may be applied, the revenue they at present produce, with suggestions for increasing the same, and a general relation of all transactions which have taken place since they were placed in my charge, 15th September, 1856.

\* \* \* \* \*

14. To enable me to do so intelligibly, and with convenience to you, I shall adopt the form of a schedule showing the present nature, character and extent of each piece of Ordnance property, its condition when acquired, its value in rent or otherwise at the time of its acquisition and at the present time, so as to show hereafter any progressive improvement, giving in our margin the dates of the report of which each property has been the subject respectively; for detailed information if required, and in the other margin a summary of the contents of such reports and of the action taken on them.

(EXTRACT FROM SCHEDULE.)

Reported.	Locality.	Acreage.	Value per acre.	Rent, 1856, as per rent roll.	Rent, 1 <sup>st</sup> '58, actually collected.	Remarks.
44— NIAGARA Chain Reserve.						The Chain Reserve—extends along the bank of the Niagara River, from the Town of Niagara to Fort Erie; it consists of a reserve of a chain or 66 feet in width, in my opinion intended for the purpose of a military highway, running along the bank contiguous to the stream, at all points most practicable for travel and conveyance. It is undoubtedly vested in the Ordnance, the Province having accepted titles under them, deed 1st Oct., 1852. The claim is an important one as affecting the right of fisheries and water or wharf lots.

\* \* \* \* \*

I have the honour to be, Sir,

Your most obedient servant,

WILLIAM F. COFFIN,

*Ordnance Land Agent,*



**NO. 104.**

## EXTRACT FROM SIMILAR REPORT,

*Forming Appendix No. 37 to Report of Commissioner of Crown Lands, in Sessional Papers of Canada, 1860, No. 12.*

OTTAWA, 14th January, 1860.

To the Honourable  
The Commissioner of Crown Lands.

SIR,—I have the honour to submit for your consideration, my annual report on the Ordnance properties in Canada, and on the management of, and receipts from 10 the same for the year 1859.

2. My report of 1858, hastily prepared, from the mass of materials, which accumulated as I wrote, partook in a great degree of the same crude and ill-digested character. I will, therefore, with your permission, endeavour to repair this defect, upon the present occasion, by re-assorting and briefly recapitulating such of my preceding statements as may be necessary to make this report in itself intelligible.

3. The Ordnance properties were transferred to the Province by Act 19 Vic., cap. 45, which was passed 19th June, 1856. On the 15th September, 1856, I had the honour to be appointed to take charge of these properties, which were handed over to me constructively by the Royal Engineer Department, on the 5th November, 1856. 20 I make use of this expression, because the delivery on this occasion, consisted of deeds, documents and schedules. Practically the lands and buildings came into my hands in the course of 1857, on the gradual withdrawal of the stores, etc., from the different posts, by the Military authorities, and on the final settlement of questions then pending in relating to the Pensioner Force. \* \* \*

25. At Queenston Heights, a survey was instituted for the purpose of ascertaining the claims and settling the boundaries, of parties who had occupied under the Ordnance as "Annual tenants" or "tenants at will."

26. These parties were all reinstated, and now hold under lease for five years, each understanding the limits of his own holding, and, from the nature of his tenure, 30 having now an inducement to improve it.

27. Advantage was taken of the opportunity, at the same time, to set off eighteen fishing stations on the "Chain Reserve" on the bank of the Niagara River; the fisheries at this point had previously been at the disposal of the first comer, and the strongest hand—a constant subject of struggle and dispute; now, a system has been introduced, and these fisheries will be lawfully and peacefully exercised, with the prospect of a small income to result to the Government. I disposed of seven of these



fishing stations, at public auction, for a rent of \$63.50 for the fishing season; a small beginning; but which may be expected to improve. I now respectfully recommend that the future administration of these fisheries should be handed over to the Inspector of Fisheries for Canada West, reservation being made of one-half of the future proceeds of the same for the benefit of the militia fund, a proportion to which I consider it to be entitled, from the fact that, not only the "Chain Reserve" but the "beaches," by the Ordnance Vesting Act, belong to the Ordnance lands.

56. I append hereto a schedule of the Ordnance lands for 1859, showing the original area of each piece of property—how it now stands, or how it has been disposed of—what sum it has produced, if sold; and the state of the rent roll in 1859, as compared with the rent roll under the Ordnance in 1856. Showing also the improvement or decrease in each locality, as compared with the former period.

I have the honour to be, Sir,

Your most obedient servant,

WILLIAM F. COFFIN,  
*Ordnance Lands Agent.*

#### APPENDIX 37.

SCHEDULE of Ordnance Lands, shewing superficial contents. Mutations in 1859, rents respectively in 1856-1859.

20

[Extract.]

Reports.	Locality.	Acreage.	Rents 1856 as per rent roll.	Rent 1859, actually collected.	Remarks.
	<i>Niagara. Chain Re- serve.</i>	.....	.....	.....	The Chain Reserve extends along the bank of the Niagara River from the Town of Niagara to Fort Erie. The Province has accepted titles of a portion of it from the Ordnance, 1st October, 1852. It consists of a chain wide the whole distance.



**No. 105.**

## EXTRACT FROM SIMILAR REPORT.

*Extract from Appendix No. 23, to the Report of the Commissioner of Crown Lands of Canada for the year 1861, in Sessional Papers of Canada, 1862, No. 11.*

## APPENDIX No. 23.

SCHEDULE of Ordnance Lands transferred to the Province under Statute 19 Vic., cap. 45 ; their present state and condition, Dec. 31st, 1861.

[Extract.]

Reports.	Locality.	Acreage.	Rents 1856 as Per Rent Roll.	Rents 1861 Ac- tually Collected.	
	Niagara Chain Reserve.....	.....	.....	.....	The Chain Reserve extends along the bank of the Niagara River from the town of Niagara to Fort Erie. The Province has accepted titles of a portion of it from the Ordnance, Oct. 1st, 1852. It consists of a chain wide the whole distance.

\* \* \* \* \*

WILLIAM F. COFFIN,

*Ordnance Land Agent.*

10

OTTAWA, 20th Feb., 1862.

**No. 106.**

## GRANT TO T. C. STREET, OF CEDAR OR SWAYZE ISLAND.

EDMUND HEAD.

## PROVINCE OF CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c., &c.

To ALL TO WHOM THESE PRESENTS SHALL COME—GREETING.

WHEREAS, Thomas C. Street of Chippawa, in the County of Welland, Esquire, 20 hath contracted, and agreed to and with Our Commissioner for the sale of our Crown Lands, duly authorized by Us in this behalf, for the absolute purchase, at and for the price and sum of Twelve pounds ten shillings of lawful money of Our said Province, of the Lands and Tenements hereinafter mentioned and described, of which We are seized in right of our Crown :



NOW KNOW YE, that in consideration of the said sum of Twelve pounds ten shillings by him the said Thomas C. Street to Our said Commissioner of Crown Lands, in hand well and truly paid to Our use, at or before the sealing of these our Letters Patent, We have granted, sold, aliened, conveyed and assured, and by these presents do grant, sell, alien, convey and assure, unto the said Thomas C. Street, his heirs and assigns for ever, all that Parcel or tract of Land, situate, lying, and being, in the Township of Stamford, in the County of Welland, in our said Province, containing by admeasurement four acres be the same more or less; which said Parcel or

Tract of Land, may be otherwise known as follows, that is to  
 10 Recorded 14th Dec., 1857. say: being composed of Swayze's Island in the aforesaid Township of Stamford—Reserving free access to the shore for all Vessels, Boats and Persons.

*T. MOS. AMIOT,  
Depy. Registrar.*

TO HAVE AND TO HOLD the said Parcel or Tract of Land, hereby granted, conveyed and assured unto the said Thomas C. Street, his heirs and assigns, for ever; saving, excepting and reserving, nevertheless, unto Us, our heirs and successors, all mines of gold and silver, the free uses, passage and enjoyment of, in, over and upon all navigable waters that shall, or may be hereafter found, on, or under, or be flowing through, or upon any part of the said parcel or Tract of Land hereby granted as aforesaid.

20 GIVEN under the Great Seal of Our Province of Canada; WITNESS, Our Right Trusty and Well Beloved The Right Honourable Sir Edmund Walker Head, Baronet, one of our most Honourable Privy Council, Governor-General of British North America and Captain-General and Governor-in-Chief in and over our Provinces of Canada, Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice-Admiral of the same.

At Toronto this eleventh day of November in the year of Our Lord, one thousand eight hundred and fifty-seven, and in the twenty-first year of our reign.

E. P. TACHÉ,

*Commissioner of Crown Lands.*

30 By Command of His Excellency in Council,

E. A. MEREDITH, *Asst. Secretary.*

Ref. No. 20913.

Sale No. 12975.

F.R.

F.B.



**No. 107.**

LETTER FROM V. McALPIN, TOWN CLERK OF CLIFTON (NIAGARA FALLS), TO THE COMMISSIONER OF CROWN LANDS.

CLERK'S OFFICE, CLIFTON, 19th June, 1858.

To the COMMISSIONER OF CROWN LANDS,  
Toronto.

SIR,—I am instructed by the Mayor and Council of this Town, in accordance with a resolution passed June 14th inst., whereby it was resolved, that said Council do petition the Crown Land Department for a Lease of Occupation of the reserve 10 adjoining the Niagara River, between the Falls of Niagara and the Suspension Bridge, to humbly request that the Department will be pleased to take the matter contained in said resolution into their favourable consideration.

I have the honour to be,  
Your obedient servant,

VOLNEY McALPIN,  
*Town Clerk.*

**No. 108.**

ORDER IN COUNCIL ON SUBJECT OF ORDNANCE RESERVES, AND REGARDING DISPOSAL, TOGETHER WITH SCHEDULE ATTACHED.

20 REPORT OF A COMMITTEE OF THE HONOURABLE THE EXECUTIVE COUNCIL, DATED 18TH NOVEMBER, 1858, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL ON THE 20TH NOVEMBER, 1858.

The Committee have had under consideration a memorandum dated 11th November, 1858, from the Ordnance Lands Agent, embracing an abstract of all reports made by him on the subject of the Ordnance Reserves in Upper and Lower Canada, showing briefly the nature and extent of these properties severally, their late and present employment, condition, character and value, and offering suggestions for their future disposal, and they humbly advise that the recommendation submitted by the Commissioner of Crown Lands in each case, and noted in the margin of the 30 said memorandum, be approved and carried out, that is to say :—

## CANADA WEST.

Amherstburg.—Land round Fort Malden, to be set off in 3-acre lots, and sold by public auction, according to demand at the time of sale.

Chatham.—Reserve of eleven acres, to be surveyed and sold in lots.

Lyon's Creek.—Reserve of seven acres, to be sold for agricultural purposes.



Chippewa.—Barracks, store and fifteen acres of land, also an Island on the mouth of the creek, containing four acres and three rods of land, to be offered for sale in one lot.

Queenston.—Land (about one hundred acres) on the bank of the Niagara, stone quarries and fisheries, a plan of the property to be prepared, and suggestions for the sale and privileges, to be submitted by the Commissioner of Crown Lands.

Niagara Town.—The Royal Engineers Quarters, with lot containing one and a-half acres, to be offered at public auction, at an upset price of \$350 or \$400.

The Short Hills Farm.—This property, situate in the Township of Pelham, 10 County of Welland, containing about two hundred acres, to be divided off into lots and offered for sale.

Burlington Heights.—The Ordnance Lands on those Heights, stated to contain one hundred and seventy-eight acres, to be surveyed; certain claims thereon preferred by Sir Allan McNab, and others to be investigated; and suggestions for settlement with such claimants, and for the sale of the property, to be submitted.

Prescott, Fort Wellington.—The land surrounding the Fort, and the space occupied by the Fort itself, to be set off into villa lots and offered to competition at an upset price.

Cornwall.—The fuel yard at this place, comprising one acre, to be advertised 20 and sold at the same time as the land at Prescott.

#### CANADA EAST.

Three Rivers.—The land here, susceptible of being divided into *emplacements* or building lots, to be so set off at once; and a scheme for its disposal to be submitted by the Ordnance Land Agent, as suggested by him.

Laprairie.—The Ordnance Land Agent to be authorized to sell the wooden buildings at this place, by public auction, as he suggests.

Saint Johns.—The Ordnance Land Agent to be authorized to cause a portion of the land reserved at this place, to be set off into building lots; and to submit for your Excellency's consideration a scheme for their disposal.

80 South River, Isle aux Noix.—The tract of one hundred and thirty-five acres, alluded to by Mr. Coffin, to be sold by public auction, as recommended by him.

Chambly.—The Cavalry Barracks to be, after communication with the Commander of the Forces, offered for sale, and the value of the materials realized. The site on which they stand to be then set off into building lots and sold, according to demand.

Chateauguay.—The five acres on which the old block house stands, to be sold at public auction.



Coteau du Lac.—The ten arpents outside the Fort, purchased from the Honourable W. Campbell, to be divided into building lots and offered to public competition.

Certified,

WM. H. LEE,

*C. E. C.*

MEMORANDUM OF ORDNANCE PROPERTIES, OR BUILDINGS, IN UPPER AND LOWER CANADA, WHICH MAY BE DISPOSED OF, IF SO ORDERED.

[*NOTE :—Recommendations of the Commissioner of Crown Lands in margin.]*

10

CANADA WEST.

WINDSOR.—Lots of 4 acres, held by corporation, under lease for 21 years, 17 unexpired, at \$26 per an.; Corporation offer to purchase at \$1,600, payable in debentures bearing 6 per cent interest, redeemable in 20 years from date. Interest \$26 per annum.

AMHERSTBURG.—Land round Fort Malden, not touching the Fort or interfering with the pensioners—could not be sold before—until settlement with pensioners—should be set off in 3 acre lots, by Wilkinson, P. S., (who recently surveyed Pensioner Lots,) and sold by public auction, according to the demand at the time of sale.

20 BOIS BLANC ISLAND.—Opposite to the Town Amherstburg, contains 212 acres, might be set off in convenient lots, and sold to advantage in connection with the fisheries on the shore, River Detroit.

CHATHAM.—Reserve of eleven acres, the lease of which has just been thrown up. In the west of the town, wanted by Corporation,—could be advantageously sold in lots.

LONDON.—A part of this Reserve might be set off, if only to try the market. The Corporation of London and Catholic Bishop have made proposals for parts of Reserve. The lots to be sold would be disposed of at an upset price.

30 FORT ERIE.—The pensioner question having been disposed of, the remainder of the Reserve may be set off in lots. In view of the South Western Railway, and the construction of the International Bridge, some would sell on favorable terms, probably well, at all events they would be sold at an upset price, and would be withdrawn, if they did not bring it. We should ascertain their value in the market.



LYONS CREEK.—A reserve of seven acres in occupation of a squatter; <sup>7 acres may be sold.</sup> may be sold for agricultural purposes.

CHIPPEWA.—Barracks, store and fifteen acres of land, also an <sup>20 acres may be sold.</sup> island at the mouth of Chipewa Creek, four acres three rods of land, rented for \$54 per annum, may be offered for sale in one lot.

QUEENSTON.—Apart from land licensed to Brock's Monument Committee, there is a considerable quantity of land lying on the bank of the Niagara, excellent stone quarries, fisheries, occupied by squatter and lessees, from year to year. These lands and privileges, if set off in convenient lots <sup>Some 100 acres may be sold.</sup> 10 and properly advertised, would sell to advantage.

NIAGARA TOWN.—We have here 438 acres in the immediate vicinity of the town—excellent land, beautifully wooded and situated, but difficult to deal with; with the present prospects of Niagara, no demand exists for town lots. It might be divided into small farm lots and so be leased, awaiting better times; or it might be attached to the public institution for which the barracks, hospital, officers quarters, &c., are well adapted. This has already been the subject of recommendation. The Commandant's, Commissariat and Barrack Master's residence or quarters, have been rented to the 1st May next. The hospital remains unoccupied for 20 the Royal Engineers quarters. Capt. Baxter—late Royal Canadian Rifles—<sup>1½ acres may be sold.</sup> has offered the sum of \$400 for this lot and premises. I think the offer, as made, might be accepted.

THE SHORT HILLS FARM, township of Pelham, County of Welland, contains 200 acres of land and was reported upon, as per margin, I still think, as suggested in that report, that the farm might be divided off as recommended and sold to advantage.

BURLINGTON HEIGHTS.—Is stated in the schedule of Ordnance lands, to contain 178 acres. It ought, in my opinion, as already suggested, to be surveyed. The Great Western & Hamilton & Toronto Railways 30 should be called upon to pay for the quantity of land they respectively occupy; and the claims preferred by Sir Allan McNab and others, should be fairly considered. The remainder of the reserve, these cases being disposed of, might be divided into acres or half acre lots and sold.

TORONTO has been already disposed of, to a certain extent, in my report of yesterday's date. A large portion of the reserve remains to be disposed of when circumstances justify the sale; awaiting which, I would suggest that the tract of ground lying between the railroads and lake should be leased for pasturage. It would feed a very large number of <sup>200 acres at least, if not much more, as yet unappropriated may be leased.</sup>



cattle during the summer, and if offered to public competition, would, until wanted, realize a handsome annual rental. The old fort, new barracks and dependencies, are still in military occupation.

KINGSTON.—The town lots in Kingston are all occupied by parties whose claims to pre-emption, are at the least entitled to full consideration. My inquiries at this point have been impeded by the want of a plan now in course of preparation by the Crown Land Department. The larger tracts could not be sold to advantage just now, and may judiciously be left untouched until final decision on the seat of Government question.

10 GRANT'S ISLAND, BROCKVILLE.—Recommended to be sold to the Brockville and Pembroke Railway Company for \$1,000, or such other valuation, or on such terms, as the Government may adopt.

PREScott, FORT WELLINGTON.—The land surrounding the Fort, and the space occupied by the Fort itself, might be set off in villa lots, and offered for competition at an upset price. If withdrawn, they could be held for private transaction at that price.

CORNWALL.—At this place, one acre of land, formerly used as a fuel yard, has been enquired for. It might be advertised, and sold, at the same time with Prescott lands. In Western Canada, the Ordnance Re-serve at Point Pelee, Rondeau, Turkey Point, Fort Maitland and Cape Percy, remain as yet unvisited, from want of time and opportunity to present date.

#### CANADA EAST.

TEMISCOUATA.—11 acres, not visited, the land appears to be only 11 acres, temporarily vested in the Crown.

THREE RIVERS.—About 4 acres. It has been suggested that the buildings should be put to the purpose of a Provincial Asylum for the Blind; but without interfering with the object, there is land susceptible of being set off in building lots, or *emplacements*, which being contiguous to the wharf and works of the Grand Trunk and Arthabasca Railway, would, at this moment, most probably sell well. Strongly recommend that I may be authorized to have the lots set off on the ground at once, and submit a scheme for the decision of Government.

LAPRAIRIE.—It has been suggested that the stone buildings and officers' quarters at this place, should be kept up, and used as an asylum for maniacs and incurable lunatics. The wooden buildings should be sold at once before they become valueless, and the value realized—the materials at this time and season, would probably sell well. I urgently renew the



request that I may be permitted to sell them at public auction, or at least take the preliminary steps before the season closes.

ST. JOHNS.—It has been suggested that the Barracks, and part of the land, should be put to the purposes of a Provincial Lunatic Asylum for Lower Canada. The remainder of the land, might, and ought to a considerable extent be set off in building lots, or *emplacements*, which, from the contiguity of the Shefford Railway terminus now comprising, would sell well at present. It is therefore strongly recommended, that authority should be given without delay at this period of the season, to set off lots 10 and prepare a scheme for the further consideration and approval of Government.

SOUTH RIVER, ISLE AU NOIX, 135 acres—I presume that as not being included in the Proclamation, this land is not required for the purpose of the juvenile reformatory. It is not indispensable, seeing that there is 150 acres of land on the Island. It may be sold by auction to advantage, and proceeds realized. It should bring from \$8 to \$12 per acre. Recommended to be sold.

CHAMBLY.—The Old Fort, Infantry Barracks and Commissariat Store should be retained and used for the purpose of a public institution, 20 say a Deaf and Dumb Asylum, as already reported on. The Cavalry Barracks (wood), should be sold off before they rot, and the value of the materials realized; it will be necessary to consult the Commander of the Forces, but upon this head I anticipate no difficulty. The land on which they stand, could be then set off in building lots—*emplacements*—offered for sale and sold according to demand. I think steps ought to be taken at once to carry these suggestions into effect.

CHATEAUGUAY.—Land on which the old blockhouse stands cost £200; 5 acres; should be sold at public auction. Recommended accordingly.

30 CASCADES, CEDARS, COTEAU DU LAC.—These lands and water power have been carefully surveyed and have been reported on at length. I strongly advise that the water power should be offered to public competition, but if not, that the 10 arpents outside the fort, purchased from the Hon. W. Campbell, should be set off in building lots, *emplacements*, and offered to public competition.

NORD, SEIGNIORY OF.—There is in this Seigniory, without question, large tracts of unconceded lands, which have been neglected and which are now at the disposal of the Crown, but it would require a stay



of some time on the spot and a careful personal examination to enable me to pronounce. Up to this time I have been too much occupied to do more than make preliminary enquiries, and report as I have done, whilst occupied in the collection of rents in conjunction with the Officer of the military department.

OTTAWA, RIDEAU NAVIGATION, AND GRENVILLE AND CARILLON CANAL.—All have been the subject of many reports, special as well as general, but still imperfect in that amount of information which would justify suggestions on which I could rely; the extent of line of the 10 canals, and the number of persons interested, require that the attention when given to these subjects, should be given to them exclusively. The break in the Rideau Canal, and consequent interruption of navigation and communication, would be a sufficient reason for delay in investigating these subjects thoroughly, did not a stronger reason exist in the fact that other occupations, the whole summer through and this autumn, and my consequent absence from Ottawa, have compelled me to defer them.

I trust, however, during this winter to be able to go into the land claims, of which I have upwards of 550 on file, touching the line of the Rideau navigation alone, without counting the local claims and applications at Ottawa and on the line of the Ottawa Canals.

I offer no recommendation with respect to the disposal of these lands, generally, until all the claims made are duly investigated and submitted, nor with reference to the public and unoccupied lands in the City of Ottawa, until further is known with respect to the question of the seat of Government.

WILLIAM F. COFFIN,  
*Ordnance Lands Agent.*

TORONTO, 11th Nov. 1858.

**No. 109.**

30 LICENSE OF OCCUPATION COMMISSIONER OF CROWN LANDS McDougall, TO MUNICIPAL COUNCIL OF CLIFTON.

LICENSE OF OCCUPATION TO THE MUNICIPAL COUNCIL OF THE TOWN OF CLIFTON, IN THE COUNTY OF WELAND.

For all that parcel of land in the Township of Stamford, in the County of Welland, known as the late Ordnance Chain Reserve, along the top of the bank of the River Niagara, and also the strip lying between the said late reserve and the waters

27 May 1862



edge of the said river, the whole being in front of the said Town of Clifton, exclusive of those portions of the said late Ordnance Reserve, and of the strip of land lying in front thereof, heretofore leased to George Bender and Zenos B. Lewis, the proprietors of the Clifton water works, and to Thomas Barnett, exclusive also of the macadamized road constructed thereon, and reserving to Saul Davis access to and the use of the stairs built by him, from the foot to the top of the bank of the said Niagara River.

The said License of Occupation being granted to the said Municipal Council of Clifton on condition that the said Municipal Council do not lease or let any portion of the above described parcels of land, or erect any buildings thereon, without the consent of the Commissioner of Crown Lands.

In witness whereof the Commissioner of Crown Lands hath hereunto set his hand and affixed his seal, this twenty-seventh day of May, one thousand eight hundred and sixty-two.

WILLIAM McDougall,  
*Commissioner.*

Signed, sealed and delivered in the presence of

ANDREW RUSSELL,

## No. 109A.

CERTIFICATE THAT ORDER IN COUNCIL (CANADA) OF 16TH NOVEMBER,  
20 1869, WAS PASSED CLASSIFYING ORDNANCE LANDS UNDER C.S.C.,  
CAP. 24, AS SHEWN.

*Re Classification. Order in Council 16th Nov., 1869, published in Vol. 1874, at pp. 434-5.  
ORDNANCE LANDS PLACED IN CLASSES B & C.*

Ordnance lands, buildings and other properties transferred to the charge, keeping and management of the Minister of Militia and Defence, to be retained for the defence of the Dominion until further order, and placed in Class B, under the provisions of the 24th Chapter of the Consolidated Statutes of Canada, intituled "An Act respecting the Ordnance and Admiralty Lands transferred to the Province."

### CLASS B.

- 30 Temiscouata.—On Lake Fort Ingall—Stockaded Barracks.
- Laprairie.—Barracks and Common.
- (\*) St. Johns.—Old Fort—Infantry Barracks and land contiguous.
- Isle-aux-Noix.—And land at South River.
- (\*) Chambly.—So much of the land as lies to the north of the Queen's highway, between the highway and the water of the Chambly Basin, between the Chambly Canal on the west and the eastern boundary of the said property, excluding property known as the Barrack Master's Quarters and Field.

(\*) These properties have since been placed in Class C.

This license covered

1. the late ordnance chain Reserve along the Top of the Bank in front of the Town of Clifton exclusive of ~~the part~~ <sup>descriptions</sup> leased to the Clifton Water Works and to Barnett and ~~of~~ the Macadamized road constructed thereon and said dams easement
2. and also the Strip lying between the said Reserve and the Waters edge of the River -

Dominion Control

Chateauguay Reserve.

Prescott.—Fort Wellington, with ditch and glacis and lots from 13 to 36 inclusive.

Kingston.—Cartwright's Field, occupied by Militia Volunteer Drill Shed and used as Drill ground.

Toronto.—Bathurst Street Barracks and the Ordnance Reserve.

Niagara.—Reserve, Barracks and Hospital, and Fort Mississauga.

Queenston.—Reserve, now occupied by the Trustees of Brock's Monument.

Navy Island.—In the River Niagara.

London.—Artillery and Infantry Barracks, Hospital and remainder of reserve.

10 Chatham.—Infantry Barracks and reserve.

Penetanguishene.—So much of reserve, and also buildings now occupied by Juvenile Reformatory.

Amherstburg.—Fort Malden Reserve and buildings, now occupied as a Lunatic Asylum ; also, lot letter A, Dalhousie Street, Amherstburg.

Ottawa.—Part of lot D, con. C., Nepean, known as the Militia Drill ground and fenced in by the Militia Department.

#### CLASS C.

The remainder of the lands, buildings and property enumerated in the second schedule to the above mentioned Act, and not included in class B, are placed in class 20 C, and may be sold, leased or otherwise used, as to the Governor in Council, from time to time, may seem meet.

I hereby certify that the Ordnance lands, buildings and properties above mentioned, have been placed in classes B and C, respectively, as above stated, by Order of His Excellency the Governor-General in Council, bearing date the sixteenth day of November, 1869.

W. A. HIMSORTH,  
C. P. C.

#### NO. 110.

LETTER, FROM T. C. STREET TO COMMISSIONER OF CROWN LANDS  
30 RICHARDS, REGARDING CONSTRUCTION OF ROAD ON CHAIN RESERVE SOUTH OF TABLE ROCK.

NIAGARA FALLS, 21st January, 1871.

Hon. STEPHEN RICHARDS,

DEAR SIR,—There is a chain of allowance for road from Table Rock southwards in front of Lots 159 and 160, in Stamford, near the Falls. I have always had, if you will look at the Records, a license of occupation of this reserve. I now want to open

\* John Wilson - ante page 199 line 29. There was a road from Still House to Street Mills



a new source of attraction to the people visiting the Falls, and wish to admit them to a small island just above the Falls, on which I have erected an observatory, and of which I have the patent.

To make the access easy for carriages, I want to make a road, at my own expense, across and along the Chain Reserve, but before doing so, I wish to get the consent of the Government.

Will you kindly send me a letter granting the permission ?

and oblige,

THOMAS C. STREET.

10

## No. 11.

### REPORT OF COMMISSIONER RICHARDS THEREON.

TORONTO, 21st February, 1871.

The Commissioner of Crown Lands has the honor to submit the following memoranda for the consideration of the Honourable Executive Council.

Thomas C. Street, Esquire, applies for leave to construct a carriage road, at his own expense, along the chain reservation on the Top of the Bank of the Niagara in front of parts of lots numbers 159 and 160 in Stamford, from the Table Rock above the Falls southward to the foot of Swayze's Island of which Mr. Street is the patentee, a distance of about 300 yards, for the purpose of enabling the public to visit an observatory erected by him on that Island.

Mr. Street is now in possession of this part of the reservation under a license of occupation given by Lieut.-General Peter Hunter to Isaac Swayze on the 4th May, 1804, and by him assigned to Mr. Street's father on the 19th December following.

The land in question was vested in the Principal Officers of Ordnance by the Act 7 Vic., cap. 11, but surrendered to the Crown by them on the 1st October, 1852, and the surrender accepted in Council on the 9th December following.

By the same Order in Council (9th December, 1852) a lease of this, as well as other portions of the chain reservation in Stamford, was directed to be granted to the Municipality of that Township at a nominal rent, but by Order in Council 27th April, 1853, so much of it as was occupied by Mr. Thos. C Street was excluded from the proposed lease.

On the 3rd February, 1854, the municipality declined accepting any lease of the reserve.

The Commissioner sees no objection to Mr. Street being allowed to construct the road within the limits of the land now held by him, under the beforementioned license of occupation.

S. RICHARDS.



**No. 112.**

## ORDER IN COUNCIL GRANTING PERMISSION.

24th day of February, A.D. 1871.

The Committee of Council have under consideration the Memoranda of the Honourable Commissioner of Crown Lands, dated the 21st inst., as follows :—

Thomas C. Street, Esquire, applies for leave to construct a carriage road, at his own expense, along the chain reservation on the top of the bank of the Niagara River, in front of parts of lot numbers 159 and 160, in Stamford, from the Table Rock above the Falls southward to the foot of Swayze Island, of which Mr. Street is the 10 patentee, a distance of about three hundred yards, for the purpose of enabling the public to visit an observatory erected by him on that Island.

Mr. Street is now in possession of this part of the reservation, under a license of occupation given by Lieutenant-General Peter Hunter to Isaac Swayze on the 4th May, 1804, and by him assigned to Mr. Street's father on the 31st January, 1828.

The land in question was vested in the Principal Officers of Ordnance by the Act 7th Vic., chap. 11, but surrendered by them to the Crown on the 1st October, 1852, and the surrender accepted in Council on the 9th December following.

By the same Order in Council (9th December, 1852), a lease of this, as well as of other portions of the chain reservation in Stamford, was directed to be granted to the 20 Municipality of that Township, at a nominal rent, but by Order in Council of the 27th April, 1853, so much of it as was occupied by Mr. Thomas C. Street was excluded from the proposed lease.

On the 3rd February, 1854, the Municipality declined accepting any lease of the Reserve.

The Commissioner sees no objection to Mr. Street being allowed to construct the road, within the limits of the land held by him under the before-mentioned license of occupation.

The Committee advise that Mr. Street be allowed to construct the road as desired by him, the same to be subject to the same terms of revocation as the present 30 license of occupation.



**No. 113.**

LETTER FROM ASSISTANT COMMISSIONER OF CROWN LANDS, ONTARIO,  
TO SECRETARY OF STATE, OTTAWA, ENQUIRING AS TO DEALINGS  
BY DOMINION GOVERNMENT WITH LAND SURRENDERED 1ST  
OCT., 1852.

DEPARTMENT OF CROWN LANDS,  
SALES AND FREE GRANTS BRANCH,

TORONTO, 11th May, 1871.

SIR,—I have the honour to inform you that in a letter addressed to this Department on the 2nd inst., the Honourable Mr. McDougall makes the following statement on behalf of a client:—

That Mr. Saul Davis, of the Town of Clifton, under a lease to him from the Commissioner of Crown Lands of the late Province of Canada, dated 11th May, 1866, entered into possession of that part of the one chain reserve on lot number 159, in the Township of Stamford, in front of lot number 11 in the City of the Falls, comprised in his said lease, and erected a staircase, as authorized thereon, and kept and performed all other terms and conditions of the said lease.

That since the 1st July, 1867, the Government of the Dominion, assuming that the lands covered by the lease to Davis were still under their jurisdiction, have undertaken to deprive Davis of the remainder of his term, and, as he is informed, have leased the same premises to one Barnett, to the great loss and injury of the said Davis.

In reference to this statement, I have the honour to remark that, by an Instrument dated on the 1st October, 1852, a record of which may be found in Liber, C. S., folio 6<sup>o</sup>, in the office of the Registrar of the Dominion, the Principal Officers of Ordnance, by James S. Elliott, Esquire, surrendered to Her Majesty the Queen, the Chain Reservation bordering on the Niagara River, in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75, 92, 145, 159, 160, 174, 175, 190 and part of 191, in the Township of Stamford.

These lands thus became ordinary Crown Lands, and as such passed, under the British North America Act of 1867, to the Government of the Province of Ontario; and I am instructed by the Honourable Commissioner of Crown Lands, to enquire whether the Government of the Dominion have disposed of any part of them, and if so, to beg that he may be furnished with copies of the leases, or other instruments, by which they have been so disposed of.

Your obedient servant,

THOS. H. JOHNSON,

*Asst. Commissioner.*

per I. C. T.

The Honourable

40 The SECRETARY OF STATE, Ordnance Branch,  
Ottawa.



**NO. 114.**

REPLY THERETO BY UNDER SECRETARY OF STATE.

DEPARTMENT OF THE SECRETARY OF STATE, ORDNANCE LANDS BRANCH,

OTTAWA, 26th May, 1871.

SIR.—I am directed by the Hon. the Secretary of State to acknowledge the receipt of your communication of the 11th inst., in relation to certain frontages of lots on the Niagara River, known as the Chain Reserve, in which you quote part of a letter from the Hon. William McDougall, in which it is avowed on behalf of one Saul Davis that the Government of the Dominion had leased a portion of the said 10 Chain Reserve in the Township of Stamford, to one Barnett, since the 1st July, 1867.

And in reply to this part of your letter, I am directed to say, that a lease of this part of the Chain Reserve mentioned, was made to Davis, May 11th, 1866, that between the last date and the 21st June, 1867, the rights of Davis in the above lease, or license of occupation, was sold at the suit of the Bank of Upper Canada, by sheriff's sale, and was bought by Barnett.

On the 21st June, 1867, a lease was made to Barnett of land he had previously held under lease, combined with the land and rights he had acquired at sheriff's sale.

With respect to assumed right of the Province of Ontario, to certain lots enumerated in a deed of covenant from the Principal Officers of Her Majesty's Ordnance to 20 the Queen, dated 1st October, 1852, I am to acquaint you, that the question raised will be submitted forthwith for the opinion of the Hon. the Minister of Justice and Attorney-General.

And I am to add that it would greatly assist in the search for, and preparation of the copies of papers asked for by you, if necessary, if you would furnish a plan of the frontages of lots on the Niagara River referred to in your communication.

I have the honour to be, Sir,

Your most obed't servant,

E. PARENT,

*Under-Secretary of State.*



**No. 115.**

ASSISTANT-COMMISSIONER JOHNSON TO SECRETARY OF STATE ON  
SAME SUBJECT, ENCLOSING TRACING.

DEPARTMENT OF CROWN LANDS.

SALES AND FREE GRANTS BRANCH,

TORONTO, 12th June, 1871.

SIR,—In compliance with the request contained in your letter of the 26th ulto., I have the honor to enclose herewith, a tracing from the office copy of Map of the township of Stamford, shewing the lots on which the Chain Reservation was sur-  
10 rendered to the Crown, on the 1st October, 1852, by the Principal Officers of Ord-  
nance ; the Chain Reservation being colored yellow on the said tracing.

I also enclose a tracing of part of a Map of Clifton, on which the positions of the properties held by Davis and Barnett are marked down. As no copy of the lease given to Barnett on 21st June, 1867, can be found in this Department, I shall feel much obliged by your causing such copy to be prepared and sent to me.

Your obedient servant,

THOS. H. JOHNSON,

*Assistant-Commissioner.*

To the SECRETARY OF STATE,  
20                   Ordnance Lands Branch,  
                         Ottawa.

**No. 116.**

REPORT OF MINISTER OF JUSTICE UPON CLAIM MADE BY PROVINCE  
OF ONTARIO.

DEPARTMENT OF JUSTICE,

OTTAWA, July 25th, 1871.

A reference is made to certain correspondence which has passed between the Commissioner of Crown Lands of Ontario and the Secretary of State for Canada, in respect to what is known as the Chain Reserve along the top of the bank of the River  
30 Niagara, in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75 and 92, of the town-  
ship of Stamford, in the County of Welland, in the Province of Ontario, and in front of lots numbers 145, 159, 160, 174, 175, 190 and part of 191, of the said township ; and the question suggested is, in effect, whether the same, and the rents accruing on leases of any portions of the same, are the property of Canada or of the Province of Ontario.



2. It appears that up to the 1st October, 1852, the reserve of one chain along the top of the bank of the River Niagara, was vested in the Principal Officers of Her Majesty's Ordnance, reserved for military purposes, and at that date, by deed executed by the Principal Officers, according to the form the statute provided, (and reciting, among other things, that the lands therein described were not then required, and were not likely to be required, by the Principal Officers for the purposes of defence, and that it was deemed most for the public service, that the same should be re-vested in the Crown for the purposes of the Province, as the other public lands thereof—and that the lands in question were, with the concurrence of the 10 Lieutenant-General commanding Her Majesty's Forces in the Province of Canada for the time being, agreed to be re-vested in Her Majesty), the lands mentioned in this memorandum were, for a nominal consideration of five shillings, surrendered unto Her Majesty, her heirs and successors for ever, the deed being expressly intended merely to pass the estate, or interest in, or lien upon, the said lands, which the Principal Officers might possibly have in or upon the same, by virtue of the Act of Parliament therein recited, viz; 7 Vic., cap. 11, under which lands used for Military defence were vested in the Principal Officers.

3. It is alleged by the Hon. Wm. McDougall, who, on behalf of his client, has initiated the correspondence, that a portion of this Chain Reserve (being on lot No. 20 159, in the township of Stamford), was, by instrument of the 11th May, 1866, leased by the Commissioner of Crown Lands to Saul Davis, for the purpose of the erection of a staircase, to enable visitors to pass under the Niagara Falls; and it is further alleged, "That since the 1st July, 1867, the Government of the Dominion, assuming "that the lands covered by the lease to Davis, were still under their jurisdiction, "have undertaken to deprive Davis of the rest of his term, and, as he is informed, "have leased the same premises to one Barnett, to the great loss and injury of Davis"; and Mr. McDougall contends that the lands, by the deed from the Principal Officers of the 1st October, 1852, became ordinary Crown lands, and passed, under the B.N.A. Act, 1867, to the Government of Ontario.

40 4. The Ordnance Land Agent, in his memorandum, shews that Mr. McDougall is under misconception as to the facts. He states that the lease was made to Saul Davis as stated, and that prior to the 21st June, 1867, the rights of Davis, under his license of occupation, were sold at the suit of the Bank of Upper Canada at sheriff's sale, and were bought by Barnett; and that the latter having thus become the assignee of the rights of Davis a new lease was made to him, under certain limitations and restrictions, on the 21st June, 1867, under the Great Seal of the late Province of Canada, the same bearing a rental of \$1,000 per annum, and comprising the premises as mentioned at length in the last mentioned instrument

5. It will be observed that the transfer from the Principal Officers to the Crown 40 bears date the 1st October, 1852,—the recital above mentioned, showing that the Chain



Reserve was to be re-vested in the Crown for the public purposes of the Province, as the other public lands thereof,—and the Acts by which Ordnance lands not required for defence, were vested in the Province of Canada, were not passed until the years 1855 and 1856.

6. By the memorandum of the Ordnance Lands Agent it appears that, from the 1st July, 1867, to the 30th June, 1871, payments have been made by Thomas Barnett, on account of the rental, of \$4,000 in the aggregate. It is further stated by the Ordnance Land Agent that the reason that these lands were placed under his charge by the Commissioner of Crown Lands of the late Province of Canada, was that having been originally Ordnance lands, it was thought best that he should have the control and receive the rental thereof.

7. It seems clear, however, that from the 1st October, 1852, this Chain Reserve along the top of the bank of the River Niagara opposite to the lots, as set out at the commencement of this memorandum, were Crown lands of the late Province of Canada, and passed, under the B. N. A. Act, 1867, as being (section 109) lands belonging to the Province of Canada at the Union, to the Province of Ontario, in which the same were situate, and that there are (following the words of that section) no trusts existing in respect thereof, and no interest other than that of the Province of Canada in the same.

20 8. The undersigned has, therefore, the honour to suggest that communication to the above effect be made to the Lieutenant-Governor of Ontario, by the Secretary of State for the Provinces; and that the sum of \$4,000 received for the rental, under the instrument of the 21st June, 1867, leasing a portion of the premises to Thomas Barnett, should be paid out of the Ordnance Lands funds to the Government of Ontario, and that if these recommendations be approved, an Order in Council should be passed to carry them into effect.

The points submitted by the Secretary of State on this case, embrace the more comprehensive question raised by the Ordnance Lands Agent, as to whether all leases, and terminable covenants for lands revertible to the Crown, should not be similarly treated, but it is suggested it is desirable to deal with each case as the same may arise.

H. B.

I concur in the above report.

JOHN A. MACDONALD.



## No. 117.

### ORDER IN COUNCIL (CANADA) THEREON.

REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCE THE GOVERNOR-GENERAL IN COUNCIL, ON THE 28TH NOVEMBER, 1871.

On a memorandum dated 20th November, 1871, from the Honourable the Secretary of State, representing that an application had been made by the Department of Crown Lands of the Province of Ontario, through His Honour Lieutenant-Governor Howland, dated 25th May, 1871, claiming that the Chain Reservation bordering on the Niagara River, in front of lots numbers 1, 20, 21, 40, 41, 58, 59, 74, 75, 92, 145, 10 159, 160, 174, 175, 190, and part of lot 191, in the township of Stamford, had been surrendered by the Principal Officers of Ordnance, to Her Majesty the Queen, by an instrument dated 1st October, 1852: and that these lands then became ordinary Crown lands, and as such passed under the B.N.A. Act of 1867, to the Government of the Province of Ontario.

That the Hon. the Attorney-General and Minister of Justice, by his report dated 25th July, 1871, has reported that, it seems clear that from the 1st October, 1852, this Chain Reserve along the top of the Bank of the River Niagara, opposite to the lots as set out at the commencement of this memorandum (being enumerated above), was Crown Lands of the late Province of Canada, and passed under the B.N.A. Act of 20 1867, as being (section 3) lands belonging to the Province of Canada at the Union,—to the Province of Ontario in which the same are situate; and that there are (following the words of that section) no trusts existing in respect thereof, and no interest other than that of the Province of Canada in the same.

Certified.

WILLIAM H. LEE,  
*Clerk Privy Council.*

## No. 118.

### ORDER IN COUNCIL, DOMINION GOVERNMENT, DIRECTING REFUND OF MONEYS RECEIVED FROM BARNETT TO PROVINCE OF ONTARIO.

REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCE THE GOVERNOR-GENERAL IN COUNCIL, ON THE 20TH SEPTEMBER, 1872.

On a Memorandum, dated 6th September, 1872, from the Hon. the Secretary of State, on an application of the Government of Ontario for possession of certain parts



of the Chain Reserve of the River Niagara, surrendered by the Crown to the Province of Canada, 1st October, 1852, and for restitution of rents received therefrom:

The Secretary of State reports that it is the opinion of the Right Hon. the Minister of Justice and Attorney-General, rendered 25th July, 1871, that these parts of the Chain Reserve are vested in the Ontario Government;

That it is also shown sufficiently that the rents claimed as having been paid by Thomas Barnett, have been derived from a lease of a portion of the so surrendered Chain Reserve, and that these rents now amount to a sum of \$5,000.

That other portions of the said Chain Reserve — to wit, the frontage of lots numbers 41, 58, 74—have been sold for the sum of \$500; that under the above ruling this sum, also, is revertable to the Government of Ontario: the two sums making together a sum of \$5,500.

That at the same time the Government of Ontario have been, since the 1st July, 1867, in the occupation and enjoyment of valuable Ordnance property at Amherstburgh and Penetanguishene, on which rent has been charged, but not paid, at the rate of \$1,215.84 per annum.

That the amount now due to the 1st August last is \$5,079.20.

That on the 21st August, 1869, the Hon. M. C. Cameron, then Secretary for Ontario, was addressed and a claim made for \$2,431.68 arrears then accrued. That no reply has been made to this communication.

That the Ontario Government still continues to occupy property at Amherstburgh which has been valued at \$12,320; and at Penetanguishene also, valued at \$7,944.

The Hon. the Secretary of State therefore recommends that, while admitting an indebtedness towards the Government of Ontario of \$5,500, subject to a counter-claim of \$5,079.20, at present date, that Government should be invited to effect a final settlement by restoring to the Dominion the property held, with arrears paid to the date of restitution, and that the Hon. the Secretary of State should be requested to make this communication to the Lieutenant-Governor of Ontario.

30 The Committee concur in the foregoing recommendation, and submit the same for Your Excellency's approval.

W. A. HIMSWORTH,

*C.P.C.*



**No. 119.**

LETTER FROM THE DEPUTY SECRETARY OF STATE TO LIEUTENANT-GOVERNOR OF ONTARIO, ENCLOSING COPY EX. No. 118.

DEPARTMENT OF THE SECRETARY OF STATE,

Letter W. 560.

OTTAWA, 25th Sept., 1872.

File W. 1212.

SIR,—Adverting to your despatch of the 27th April last, and its enclosures, respecting a lease of certain rights with regard to the bank of the Niagara River, adjacent to the Falls of Niagara, granted to one Barnett in 1867, I have the honour to inform you that the subject has received the consideration of His Excellency the Governor-General.

I am now to transmit to you, for the information of your Government, a copy of an Order of His Excellency in Council on the subject, and to request that you will have the goodness to invite their attention to that portion of the Order in Council which relates to the Ordnance properties at Amherstburg and Penetanguishene, and to the recommendation therein contained with regard to the settlement of the claims of the Dominion Government in respect of those properties.

I have the honour, etc.,

E. A. MEREDITH,

20 The LIEUTENANT-GOVERNOR,

C. S. S. P.

Toronto.

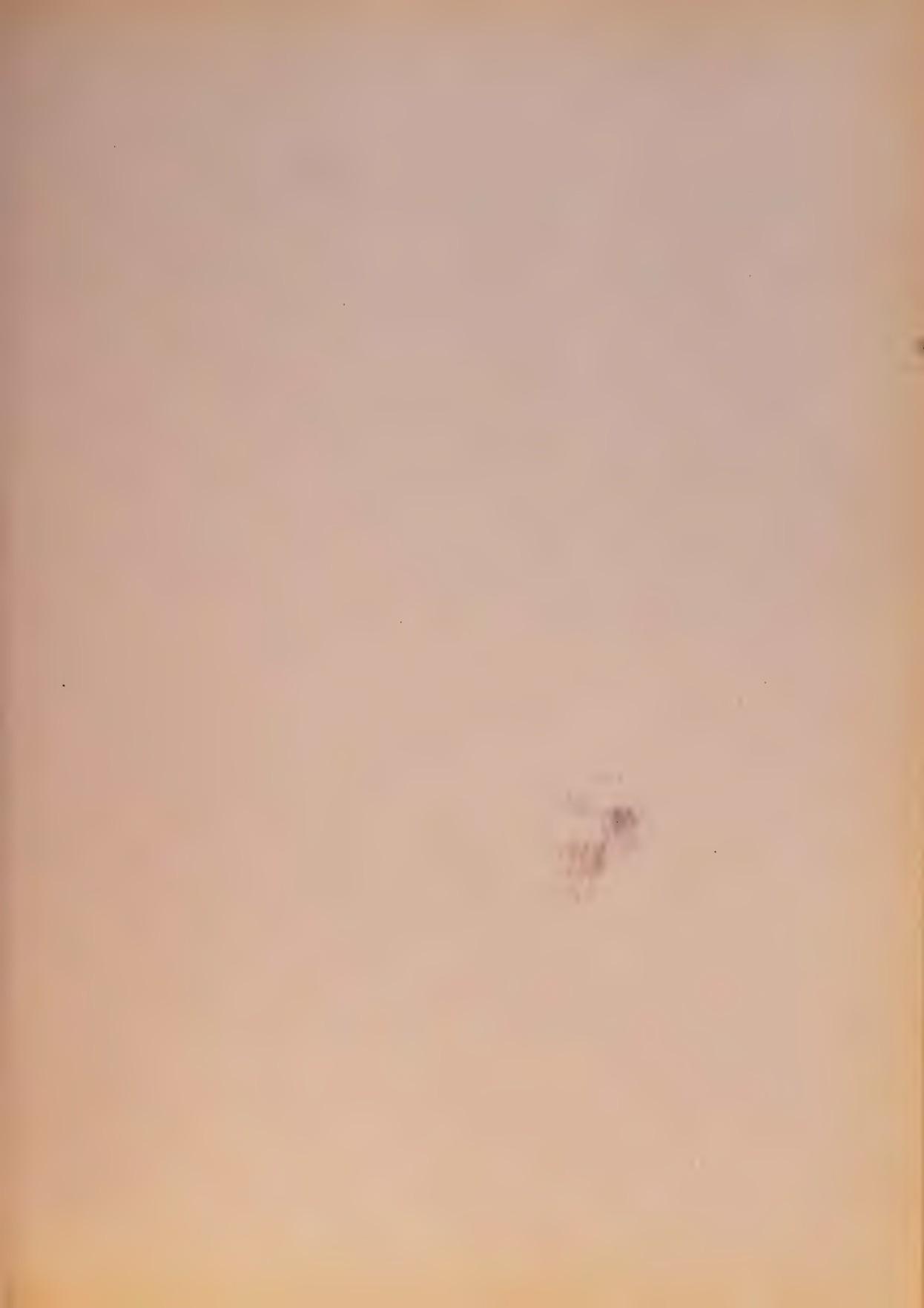
**No. 120.**

ORDER IN COUNCIL, GOVERNMENT OF ONTARIO, RECOMMENDING  
GRANT OF LEASES TO THOMAS BARNETT AND MRS. DAVIS.

ORDER IN COUNCIL, APPROVED BY HIS HONOUR THE LIEUTENANT-GOVERNOR THE 17TH DAY OF  
DECEMBER, A.D. 1872.

The Committee of Council have had under consideration the report of the Honourable the Commissioner of Crown Lands, dated the 12th December, A.D. 1872, on the application of Mrs Davis (wife of Saul Davis) for the cancellation of a certain lease granting to Thomas Barnett the exclusive privilege of access to the sheet of water at the Niagara Falls.

The Commissioner states that it would appear a lease issued in June, 1867, to Thomas Barnett, giving him the exclusive privilege of guiding visitors to and under the said sheet of water, and providing them with suitable dresses. In the exercise



of that privilege, he has the exclusive right to pass in front of the property owned by Mrs. Davis.

That prior to the above-mentioned date, the privilege of taking visitors under "Table Rock," was exercised by Davis and Barnett, who claimed right to the frontage of their respective holdings.

That the lease of Barnett is of an unusual character, inasmuch as the principle has always been conceded, that the owners of property have a right to the exercise of the water frontage.

That as the said property has been claimed by the Ordnance, the rents have all 10 gone to that branch of the Secretary of State's Office at Ottawa.

That it has now been ascertained that the Chain Reserve, along the bank at Niagara, belongs to the Province of Ontario. The Commissioner recommends that the present lease be cancelled, and that leases be granted during pleasure to Thomas Barnett and Mrs. Davis for their respective frontages; and the riparian privileges attaching, at an annual rental of \$750 each, giving to each party the right to construct a stairway, opposite their respective holdings, and equal and joint privileges along the water's edge of the two properties.

The Committee advise that the said report be acted upon.

## No. 121.

20 GRANT BY CANADA TO CLIFTON SUSPENSION BRIDGE COMPANY.

CANADA. -

255840.

DUFFERIN.

VICTORIA by the GRACE of GOD, of the UNITED KINGDOM of GREAT BRITAIN and IRELAND, QUEEN, DEFENDER of the FAITH, &c., &c.

To ALL To WHOM THESE PRESENTS SHALL COME, GREETING.

*26 January 1873*

WHEREAS the lands hereinafter described, are part and parcel of the property mentioned in the British North America Act, 1867, as Ordnance property; and whereas we have thought fit to authorize the sale and disposal of the lands herein-  
30 after mentioned, in order that the proceeds may be applied in such manner as we shall be pleased to direct, from time to time; AND WHEREAS the Clifton Suspension Bridge Company, hath contracted and agreed to with the Secretary of State of Canada, duly authorized by us in this behalf, for the absolute purchase at and for the price and sum of forty dollars of lawful money of Canada, of the lands and tene-  
ments hereinafter mentioned and described.



NOW KNOW YE that, in consideration of the said sum of forty dollars by the said Clifton Suspension Bridge Company to the Secretary of State of Canada, in hand well and truly paid, to our use, at or before the sealing of these our letters patent, we have granted, sold, aliened, conveyed and assured, and by these presents do grant, sell, alien, convey and assure unto the said Clifton Suspension Bridge Company, and its assigns, forever, all that parcel or tract of land, situate, lying and being in the township of Stamford, in the County of Welland, in the Province of Ontario, in our Dominion of Canada, as shown within the letters A. B. C. and D., in red ink on a plan by the late Geo. Rykert, Provincial Land Surveyor, dated at St. Catharines, 10 May 14th, 1867, of record in the Department of our Secretary of State of Canada, and described as follows :

Commencing at an Iron bolt fastened into the rock on the easterly side of the St. Catharines and Niagara Falls macadamized road, as shown at A., on the said plan, and fifty-two feet south forty degrees and thirty-seven minutes east of the stone wall constituting the boundary between the lands of the late Samuel Zimmerman and George Bender, thence north forty-seven degrees and twenty minutes east along the easterly side of said road, two hundred feet to an iron bolt fastened in the rock at D., as shown on said plan, thence south forty degrees, thirty-seven minutes, east two hundred and twenty-six feet six inches, on a horizontal line, extending to the 20 water's edge at C., as shown on said plan, thence south-westerly, following the waters edge, a distance equal to two hundred feet on a course south forty degrees and twenty minutes west at B., as shown on said plan, from thence north forty degrees and thirty-seven minutes west two hundred and forty-eight feet from the waters edge to the first mentioned iron bolt, the place of beginning at letter A., aforesaid ; subject to existing rights (if any) of the St. Catharines and Niagara Falls Macadamized Road Company, and of any other corporation or person, into, or over, or upon the land hereby granted or any part thereof.

TO HAVE and to hold the said parcel or tract of land hereby granted, conveyed and assured unto the said The Clifton Suspension Bridge Company, and its assigns, forever ; saving, excepting and reserving, nevertheless, unto Us, our heirs and successors, all mines of gold and silver, and the free uses, passage and enjoyment of, in, over and upon all navigable waters, that shall or may be, hereafter, found on or under, or be flowing through or upon, any part of the said parcel or tract of land hereby granted as aforesaid.

GIVEN under the great seal of Canada ; witness our right trusty and well-beloved cousin and councillor, the Right Honorable Sir Frederic Temple, Earl of Dufferin, Viscount and Baron Clandeboye of Clandeboye in the County Down, in the Peerage of the United Kingdom, Baron Dufferin and Clandeboye of Ballyleidy and Killeleagh in the County Down, in the Peerage of Ireland and a Baronet, Knight 40 of our Most Illustrious Order of Saint Patrick, and Knight Commander of Our Most



Honourable Order of the Bath, Governor General of Canada and Governor and Commander-in-Chief in and over the Island of Prince Edward; at Ottawa this Twenty-eighth day of January, in the year of Our Lord, one thousand eight hundred and seventy-three, and in the thirty-sixth year of our reign.

Reg. No. 724.

Ref. No. 428.

By Command,

J. C. AIKINS,

*Secretary of State.*

[*Endorsement.*]

10 Ordnance Land Sale.

Grant to the Clifton Suspension Bridge Company.

Township of Stamford.

County of Welland.

Dated 28th January, 1873.

Recorded 7th February, 1873.

J. C. Aikins, Secretary of State and Registrar General of Canada.

## No. 122.

20 LETTER FROM E. M. ATTWOOD TO COMMISSIONER OF CROWN LANDS PARDEE, REGARDING RESERVE IN FRONT OF THE WRITER'S FARM.

MAPLETON LODGE, May 20th, 1874.

To the Hon. T. B. PARDEE.

HON. SIR,—The diagram upon the inside of this sheet, will give you an idea of the shape and position of my farm. That portion marked flats, is, during a westerly gale, partially inundated by the waters of the Niagara River. In consequence of this overflowing, the road was moved from the margin of the river, or military reserve, and forced through the centre of my farm, leaving between the road as now occupied for a highway, and the river, a long narrow strip of fertile land, subject to those partial inundations as before stated.

Now, Sir, I am desirous of enclosing this parcel of ground, and in doing so, I desire permission from those who have the supervision of the property of the Crown, to extend my end fence across the one chain military reserve, and sufficiently far in, to prevent cattle from wading around the end and thus entering my enclosure.

Inasmuch as the road has been moved from the margin of the river, (it follows the military reserve in all other places) and forced through the best part of my farm and thereby compelling me to build an extra fence the whole length of my lot, about



125 rods, and as there is no towing along the banks of the Niagara River, so that a fence thus extended into the river, will not interfere with navigation in the least, I think that, it would be no more than right, that the Government grant me the privilege solicited.

Hoping you will give this your favourable consideration and to hear from you at your earliest convenience,

I have the honour to be,

Your obedient servant,

E. M. ATTWOOD,

10

Black Creek P.O., Welland Co., Ont.

### No. 123.

ASSISTANT COMMISSIONER CROWN LANDS JOHNSON TO E. M.  
ATTWOOD IN REPLY.

DEPT. OF CROWN LANDS, TORONTO, May 28th, 1874.

SIR,—With reference to your application, dated 20th inst., for the military reserve on lot 10, in the south-east corner of Willoughby, I have to refer you to the Ordnance Branch of the Department of the Interior at Ottawa.

Your obt. servant,

THOS. H. JOHNSON

20

E. M. ATTWOOD, Esq., Black Creek.

*Asst. Commissioner.*

### No. 124.

LETTER FROM JOHN SMITH, CLERK, TOWNSHIP OF WILLOUGHBY, TO  
THE SECRETARY OF STATE, REGARDING RESERVATION IN  
WILLOUGHBY.

CLERK'S OFFICE, WILLOUGHBY, CHIPPEWA R.R.,

27th November, 1875.

To the Hon.

The SECRETARY OF STATE,  
30 Ottawa.

SIR,—I have the honour to call your attention to the annexed Resolution of Council, passed the 30th ult., having reference to the road along the bank of the Niagara River.



"That whereas there has been a road along the bank of the Niagara River, in this township, probably, ever since the first settlement of the same, and said road "has been assumed, and kept in repair, by the Corporation; and whereas said road "has, in many places, become so narrow by the washing away of the banks, that it is "impossible to maintain the same in a safe and passable state; and whereas this "council are in doubt whether or to what extent, they are responsible for the main- "tenance of said road and with a view of being able to proceed properly in the "matter;

10 "Be it therefore resolved, that the Clerk be instructed to write the Department "of the Hon. the Secretary of State, and respectfully ask an answer to the following "point:—

1st. "For what object was the chain along the banks of the Niagara River re- "served? And, under the present circumstances, has this Corporation any jurisdiction "over it so as to protect earth, stone, sand or gravel, &c., on the same?

2nd. "If the Corporation has any jurisdiction over what still remains of the "original reserve, and is at present used for a public road, has it any power to com- "pel the removal of fences, or other obstructions to a road that may be within four "rods of the river?"

I am, Sir,

20 Your obedient servant,

JOHN SMITH,

*Clerk.*

A true extract from Minutes of Township Council, Willoughby, of date 30th Oct., A.D. 1875.

Certified,

JOHN SMITH,

*Clerk.*

No. 1224.

(*Endorsement.*)

Department of the Secretary of State, 1875.

30 John Smith, Clerk of Council of Willoughby, Chippewa P.O., 27th Nov. 1st Dec. Townships resolution of Council respecting maintenance of road along the banks of the Niagara River.

Ackd.

Transferred to the Hon. the Minister of the Interior, 1st December.

WILLOUGHBY, NIAGARA RIVER.

No. 693.

1875.

DEPARTMENT OF THE INTERIOR, ORDNANCE LANDS, CANADA.

Secy. of State, Ottawa. Date, 1st Dec., 1875. Rec'd. 1st Dec., 1875.

40 Transferring the Application of the Council of Willoughby, unto John Smith (Clerk) for information respecting maintenance of road along the banks of Niagara River. 1875, 28th Dec.; wrote to Clerk, Mun. Council of Willoughby, Ont., Vol. 20, page 315.



**No. 125.**

LETTER FROM DEPUTY MINISTER MEREDITH TO JOHN SMITH IN REPLY.

OTTAWA, 28th December, 1875.

SIR,—I have the honour to acknowledge the receipt of your communication addressed to the Honourable the Secretary of State on the 27th ultimo, and transferred to this department on the 1st instant, in which you call attention to a resolution of the Municipal Council of Willoughby of the 30th October, 1875, on the subject of the road which runs on the Niagara front of the township, and in relation to its maintenance, and the right and responsibilities of the council in connection with it; and answers are asked to the two following questions, which will be answered as far as possible in order.

1st. For what object was the chain along the banks of the Niagara River reserved, and, under present circumstances, has this corporation any jurisdiction over it, so as to protect earth, stone, sand, or gravel, &c., on the same?

It is difficult to answer this question conclusively; but it is generally understood that the chain reserve, and the still older Indian portage road on the shore of the Niagara River, were one and the same; and at the time of the acquisition of Canada to the British Crown, passed from the French to the English Military Government, by which in 1856, it was transferred to the Province, now Dominion of 20 Canada, to be used as a public highway.

If the corporation has any jurisdiction over it, it must be, by force of Statute, with which they no doubt, are fully acquainted.

2nd. If the corporation has any jurisdiction over what still remains of the original reserve, and at present used for a public road, has it any power to compel the removal of fences, or other obstructions to a road that may be within four rods of the river?

All these questions must be governed by the municipal and other statutory enactments of Ontario, and would probably be best answered by the professional adviser of the corporation. It is considered then that, if unchanged by legislation, 30 the right to the chain reserve from Fort Erie to Niagara remains vested in the Crown.

I have the honour to be, Sir, your obedient servant,

E. A. MEREDITH,

*Deputy of the Minister of Interior, Ontario.*

JOHN SMITH, Esq.,

Clerk of the Municipal Council of Willoughby,  
Welland, Ont.

Look at Plan N<sup>o</sup> 25 - Ex App<sup>x</sup> B  
whereby it will be seen that in  
part of the Township of Wollaston  
one third [say] of the Front was  
granted to the Water's edge  
See N<sup>o</sup> 32 - Appendix A Parte  
page 124. Township of Wollaston by

Township of Wollaston by -  $7\frac{1}{2}$  to  $7\frac{1}{2}$   
miles along the River —  
30 lots of 20 chains each —  
9 lots granted to River —  
about  $2\frac{1}{2}$  miles — and 5 miles  
with reserve

No. 126.

ORDER IN COUNCIL RELATING TO ORDNANCE LANDS OF THE LATE  
PROVINCE OF CANADA.

*Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 12th May, 1876.*

The Committee of Council have had before them the Report, hereunto annexed, from the Honourable the Minister of Justice, on the question of title arising in respect of the Ordnance and Admiralty Lands, and Buildings, of the late Province of Canada formerly under the control of Her Majesty's Government ; and they respectfully submit their concurrence therein, and advise them that a copy thereof, and of this minute, be transmitted to the Right Honble. Her Majesty's Secretary of State for the Colonies, for the information of Her Majesty's Government.

Certified, W. A. HIMSWORTH.

To the Honourable  
The Minister of the Interior.

DEPARTMENT OF JUSTICE.

OTTAWA, 10th May, 1876.

The attention of the undersigned has been directed to the question of title, arising in respect of the Ordnance and Admiralty Lands, and Buildings, of the late Province 20 of Canada, formerly under the control of Her Majesty's Government.

The Consolidated Statutes of Canada, 1859, 22 Vic., ch. 24, intituled: "An Act respecting the Ordnance and Admiralty Lands transferred to the Province," consolidating various prior Provincial Acts, enacts that "The lands and property vested "immediately before the 19th day of June, 1856, in the Principal Officers of Her "Majesty's Ordnance, or in the Commissioners for Executing the Office of Lord High "Admiral of the United Kingdom of Great Britain and Ireland, and situate in this "Province, shall be divided into three classes."

" One class to be denominated A, which shall include all the lands and property  
" included in the first Schedule to the Act annexed; which are and shall be vested  
80 " in Her Majesty's Principal Secretary of State for the War Department."

The first Schedule is as follows:—

"Military lands to be vested in Her Majesty's Principal Secretary of State for the War Department."

*Quebec.*—The Citadel of Quebec, Fortifications, Glacis, Barracks, Lands with the appurtenances thereunto in any manner belonging, and the barracks called Jesuit Barracks, and the several public offices occupied for the various military purposes, and all other military properties at that station.



*Montreal.*—The Barracks, Public Offices, Lands heretofore held or purchased by the Ordnance for the erection of barracks, or for the defence of the Province, together with the Island of St. Helen's, in the River St. Lawrence, as heretofore held by the Principal Officers of the Ordnance, for various military purposes, with the exception of a parcel of land at Longueuil, which has been purchased for the purpose of a *tête de pont*, which is to be retained until an adequate quantity of land is substituted by the Province in lieu thereof, in the vicinity of the projected bridge across the St. Lawrence; and also with the exception of the Old Barracks at Montreal, which are to be retained until barracks have been constructed for the accommodation of one 10 thousand men, on a site to be approved by the military authorities.

*Kingston.*—All the Military Works on the east and west of the harbour, and the Lands connected with them not named in the second Schedule.

*Niagara.*—Fort Mississagua, with its Glacis and other appurtenances.

*Sorel.*—The Barracks, Government cottage and land required for defence.

By a despatch from the Secretary of State for the Colonies, 12th February, 1870, His Excellency was informed as follows:—

“ The Barracks and Fortifications finally vacated by Her Majesty’s troops, “ together with the landed property of the War Department attached to them, will “ be handed over to Canada; so also will the armament of the fortifications. But it  
20 “ must be remembered that if, at any future period, troops are sent to Canada at the “ request of the Local Government, or in furtherance of colonial interests, the “ Dominion will be expected to provide them with barracks or lodgings, to the satis- “ faction of Her Majesty’s Government.”

By Order in Council of the 20th May, 1870, a report of the Minister of Militia and Defence was approved, containing the following paragraph:—

“ As to the Barracks and Fortifications, together with the landed property of the “ War Department attached to them, and the armament of the fortifications, which “ it is proposed to hand over to Canada; so soon as those barracks and fortifications “ are finally vacated by Her Majesty’s troops, the Canadian Government will be “ ready to accept such transfer, on the conditions stated in the despatch of the 12th  
30 “ February last, that if, at any future period, troops are sent out to Canada, at their “ request or in furtherance of colonial interests, they will provide them with barracks, “ or lodgings, to the satisfaction of Her Majesty’s Government. The Imperial Gov- “ ernment must, however, be aware that the maintenance of the barracks and fortifi- “ cations, so transferred, will necessarily entail a very heavy outlay on the part of the “ Canadian Government.”

On the 12th May, 1870, the Colonial Secretary addressed a despatch to His Excellency, intimating his concurrence in the course which the Secretary of State for War proposed to pursue upon the subject, as intimated in an enclosed letter from



Sir Edward Lugard to the Under Secretary of State for the Colonies, which is as follows:—

“ With reference to the letter from this office, dated 12th February, 1870, I am directed by Mr. Secretary Cardwell to state, for the information of Earl Granville, that by a letter dated 12th February, 1870, the Lords Commissioners of Her Majesty's Treasury have sanctioned the transfer to the Local Government of British North America, of the Barracks and Fortifications in Canada, finally vacated by Her Majesty's troops, together with the landed property of the War Department attached to them. Mr. Cardwell concludes that all the barracks and the land now 10 in the occupation of the War Department in the Dominion of Canada, except the Fortress of Quebec, and lands connected therewith, may be handed over to the Dominion Government without delay; and he proposes, should Lord Granville concur, to send orders, by the mail which leaves on the 12th instant, to Lieutenant-General the Hon. James Lindsay, to effect the transfer in question.” The undersigned infers that the temporary postponement of the transfer of the Fortress of Quebec, and the lands connected therewith, referred to in the above letter, was consequent upon its occupation by Imperial troops, and possibly the incomplete state of some of the works.

On the 27th May, 1870, General Lindsay communicated to His Excellency that 20 he would be prepared, shortly, to hand over certain of the lands and buildings; and on the 3rd June, 1870, the Minister of Militia and Defence replied to this letter, in a communication containing the following paragraph:—

“ With regard to any Barracks and Fortifications with lands attached thereto, which may be, at any time, ready to be handed over by the Imperial Government to the Dominion Government, the Minister of Militia and Defence wishes the Lieutenant-General Commanding to be informed, that the Dominion Government will be ready, at any time, to accept the transfer of the same, and to provide for the safe keeping of the property handed over, as well as of the armaments and any arms, ammunition and stores handed over in conjunction with them.”

30 On the 26th July, 1870, General Lindsay made a memorandum for the information of the Government of Canada, upon several subjects connected with the defence of the country, which memorandum contains the following paragraph:—

“ I beg to recommend great caution in alienating the military lands and buildings now in militia charge, or about to be transferred to the Canadian Government, or in granting leases or rights over them. All such arrangements, should be submitted for the report of the General Officer commanding the Militia, and the Officer in charge of Engineer duties, in order that the military view of the question may be ascertained.”

The transfer of properties proceeded under these arrangements, and from time 40 to time, they were handed over. The troops did not leave Quebec until November, 1871, about which time the transfer of the Quebec properties commenced.



The report to the Minister of Militia and Defence, dated 14th December, 1871, of Colonel Wiley, who was charged with the duty of taking over the property, contains the following paragraph :

" It was not, however, until the 29th November, when I had again returned to Quebec, that the complete transfer was made. I also received at this time from "the Control Department, such free gift and reserve stores, as remained to be delivered over."

" The Queen's and Dumlin's wharves, are the only exceptions made to the complete surrender of all the Imperial property at Quebec. The property thus retained,  
 10 " was for the purpose, as I was informed, of recouping the Imperial Government, " for their liability for the yearly rental of the Cataraqui Bridge at Kingston, in case " that liability was not assumed by the Dominion Government. The buildings " received over at Quebec in addition to the Fortifications, are the Jesuit Barracks, " the Military Store Offices, the Artillery Park Barracks, the Married Quarters on the " Glacis, the Military Prison, the Royal Engineer Offices, the Officers' Quarters and " Hospital, St. Louis Street, and the Commissariat buildings on the Place d'Armes, " several buildings also with the lands outside the walls."

A statement on the subject in the Department of Militia and Defence is thus headed : " Statement of War Department property at Quebec and Point Lévis transferred to the Dominion Government." It comprises a description of the various properties, with other particulars, and concludes as follows :—

" Delivered over to Colonel Wily for the Dominion Government of Canada, the " plans, leases and title deeds enumerated in the foregoing abstract, this 2nd day of " December, 1871. R. G. Hamilton, Colonel, Commanding Royal Engineer in " Canada. Received the above for the use of the Dominion Government of Canada, " this 2nd day of December, 1871, Thomas Wily, Lieutenant-Colonel."

The other transfers were, so far as the undersigned is aware, effected in a similar manner.

It appears to the undersigned that the legal title in the various military properties in the old Province of Canada being vested, under the Provincial Statute referred to, in the Secretary of State for the War Department, it is expedient that the Parliament of Canada should be invited to pass an Act, vesting the same in the Crown as represented in Canada, with the view to complete the title, and to facilitate the disposition of the property.  
 30

The undersigned recommends that such legislation should be proposed during the next Session of Parliament.

The undersigned would suggest the propriety of transmitting a copy of this memorandum, if approved, to the Secretary of State for the Colonies for the information of Her Majesty's Government.



**No. 126A.**

CERTIFICATE OF DEPUTY MINISTER OF THE INTERIOR MEREDITH, REGARDING RENTS PAID BY COLT, AND LETTERS ABOUT ISSUE OF PATENT TO HIM.

DEPARTMENT OF INTERIOR,

ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 21st June, 1876.

It is hereby certified that on the 24th December, 1868, Samuel Colt of Stamford, Welland, paid to the Department of Crown Lands at Ottawa, the sum of \$250, as the full price of the frontage on the River Niagara, of lot 74 Stamford, (excepting always the chain reserve). As it was shown afterwards, that before Confederation, and prior to the above date, this piece of land had been transferred from the Imperial Government to the Queen, so as to become, on Confederation, vested in Ontario, Letters Patent for this lot of land must issue from the Crown Lands at Toronto.

The chain reserve or road allowance, intervening between the front of Colt's farm, lot 74, and the land or frontage of the same lot, sold to him as above mentioned, was leased to Colt in 1870, at an annual rental of \$6, which rental is now payable at the Crown Lands, Toronto.

E. A. MEREDITH,

*Deputy of the Minister of the Interior.*

DEPARTMENT OF THE INTERIOR,

ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 18th September, 1876.

The Honourable

The Secretary of State of Canada,  
Ottawa.

SIR,—I have to request that you will be so good as to bring the following statement under the attention of His Honour the Lieutenant-Governor of Ontario.

On the 19th September, 1868, Mr. Samuel Colt of Stamford, Ontario, bought from this Department the Ordnance Reserve in front of lot 74 in Stamford, for the sum of \$250, and paid for the same. In 1872, before the issue of Letters Patent to Colt, on a representation made by the Ontario Government, it was shown clearly that at the time of the above sale, the land sold to Colt, was not Ordnance property, having been, previous to Confederation, vested in the Province of Ontario. On this showing, an Order in Council was passed 20th September, 1872, of which a copy was, at the time, forwarded to the Government of Ontario. An additional copy accompanies this communication.



It is desirable now to ascertain with all convenient speed, the views of the Government of Ontario on the contents of this Order in Council; and at the same time I may request further that you will press upon the Government of Ontario, that Letters Patent should pass at once in favour of Samuel Colt, who has paid his money in good faith and urgently claims his title.

I have the honour to be, Sir,

Your obedient servant,

E. A. MEREDITH,

*For the Minister of the Interior.*

10

DEPARTMENT OF THE SECRETARY OF STATE,

OTTAWA, 20th September, 1876.

SIR,—I am directed to transmit to you, herewith, a copy of a letter from the Department of the Interior, respecting a certain piece of land in Stamford, the property of the Government of Ontario; and to request that His Honour, the Lieutenant-Governor of that Province may be moved to direct that Letters Patent for the land in question may, as requested, be issued in favour of Samuel Colt.

I may add that a copy of the Order in Council of the 20th September, 1872, to which reference is made in the enclosed letter, was transmitted to the then Lieutenant-Governor through the Department of the Secretary of State for the Provinces.

20

I have the honour to be, Sir,

Your obedient servant,

EDOUARD J. LANGEVIN,

*Under-Secretary of State.*

The Honourable

The Provincial Secretary,  
Toronto, Ont.

## No. 127.

LETTER FROM J. D. EDGAR TO COMMISSIONER OF CROWN LANDS  
PARDEE, APPLYING ON BEHALF OF THE DEFENDANTS AND  
30 OTHERS, FOR RIGHT OF WAY ALONG THE RIVER BANK.

To the Hon. T. B. PARDEE,

Commissioner of Crown Lands, &c., &c., &c.,  
Toronto.

SIR,—Referring to our several interviews, I have now the honour to apply on behalf of George Henry Howard and Henry Francis Pierce, of the town of Clifton, in the county of Welland, bankers, Thomas Swinyard, of the city of Hamilton,

TORONTO, March 5th, 1879.



Esquire, Edmund B. Osler, of the city of Toronto, Esquire, and Donald C. Ridout, of the city of Toronto, Civil Engineer, for a sufficient right of way along the bank of the Niagara River, between the cliff and the water, and beginning at the road leading down to the ferry below the Falls, and extending down the river to Queenston, for the purpose of constructing and maintaining, a commodious carriage road and footpath, with the right of making a carriage road and footpath up to the bank to connect with the highway in the neighbourhood of the whirlpool, and another at Queenston; and with the right of access by stairway, or otherwise, to the highway at the top of the bank, at or near the Railway Suspension Bridge, together with sufficient land at the top of the bank, to operate the said stairway or elevator.

10 Also, on behalf of the same persons, that they may be allowed to use the water power, at any point between one hundred yards south of the Railway Suspension Bridge and the whirlpool, for the purposes of creating power to drive machinery upon the top of the bank, and to carry up shafts, belting or cables from the river, to convey such power.

I beg to submit that it is in the public interest to permit of the construction of this road, as an additional attractive feature on the Canadian side of the Falls; and that the proposal to utilize the rapids for supplying power to mills and manufactories, is deserving of the warmest encouragement from the Government.

20

I am, Sir,

Your obedient servant,

J. D. EDGAR.

## No. 128.

REPLY OF COMMISSIONER OF CROWN LANDS PARDEE TO J. D. EDGAR.

TORONTO, March 29th, 1879.

SIR,—I have your letter of the 5th inst., applying on behalf of Messrs. Howard, Pierce, Swinyard, Osler and Ridout for the right to build, and maintain, a road and footpath along the shore of the Niagara River, at the bottom or foot of the bank of said river, between the road opposite the Clifton House, which leads down to the ferry below the Falls, and Queenston, with the right to make two roads and footpaths, as set forth in your letter, up the bank to connect with the highway at the top thereof, and the right of access by stairway or elevator to the top of the bank, near the Railway Suspension Bridge, with the use of sufficient ground at the top of the bank to operate the said stairway or elevator; also applying for the use of the water power at some point between a point one hundred yards south of the Railway Suspension Bridge and the Whirlpool, for the purpose of creating power to drive



machinery upon the top of the bank, and to carry up shafts, belting or cables from the river to convey such power.

I beg to say that I have submitted your proposition to the Government, and they see no objection to granting to said parties, by lease or license, subject to any lease, right or privilege already existing or granted, the rights and privileges asked for, at a fair rental to be fixed by the Government; and subject to the condition of the proposed roads, &c., being constructed and maintained in a safe and proper manner, to the satisfaction of the Commissioner of Public Works, and to such other conditions as may by the Government be deemed reasonable and advisable, and in the public 10 interest.

It would seem fair that the lease or license should be at a nominal rental, for a sufficient period to enable the applicants to build the said road, say for two years, if not completed sooner, and after the termination of such period, or the occupation of said road, if before two years, at a fair and reasonable rental, to be fixed by the Government as aforesaid.

I have the honour to be, Sir,  
Your most obedient servant,

J. D. EDGAR, Esq.,  
Barrister,  
20 Toronto.

T. B. PARDEE.

## No. 129.

LETTER FROM J. D. EDGAR TO COMMISSIONER OF CROWN LANDS  
PARDEE REQUESTING ISSUE OF LEASE FOR PRIVILEGES ASKED  
FOR.

TORONTO, April 18th, 1879.

The Hon. T. B. PARDEE,  
Commissioner of Crown Lands,  
Toronto.

SIR,—I have the honour to acknowledge the receipt of your favour of the 25th 30 ultimo, respecting the granting to Messrs. Howard, Pierce, Swinyard, Osler and Ridout, of a right to build and maintain a road along the bank of the Niagara River below the cliff, from the ferry at Clifton to Queenston, and the use of the water power of the river between the Whirlpool and a point south of the Railway Suspension Bridge, as in your letter set forth. The above gentlemen are availing themselves of the privileges conferred by that letter, but find themselves hampered in the effort to raise the capital required for the expensive engineering works in  
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volved by the absence of certainty in the amount of rental to become payable to the Government upon the completion of the works.

I therefore beg to apply, on their behalf, for the issue to them of a lease covering those privileges for ninety-nine years, subject to such conditions as are usual, and to the payment of a fixed rental after completion of the works.

For the proper use of the roadway, it will be necessary to render the banks attractive and to furnish convenient buildings for the public; and, therefore I have to request that the lease may contain permission, to do whatsoever is necessary, or deemed advantageous in that way, for the benefit of the undertaking.

10

I have the honour to be, Sir,  
Your obedient servant,

J. D. EDGAR.

### No. 130.

LETTER FROM J. D. EDGAR TO MINISTER OF INTERIOR APPLYING  
ON BEHALF OF MESSRS. SWINYARD, *et al.*, FOR A LEASE.

TORONTO, 2nd December, 1879.

To the Honourable

The Minister of the Interior,  
Ottawa.

20 SIR.—Referring to my letter to you of the 18th ultimo, applying on behalf of Messrs. Swinyard and associates, for a right to construct and work a carriageway at the foot of the bank of the Niagara River on the Ordnance property, lying between the ferry near the Clifton House and the Railway Suspension Bridge, I beg to give more in detail the location of the land or right of way applied for.

It is understood that the Ordnance Department own a chain on the top of the bank, and down to the water's edge, from the line between lots 92 and 93 of the township of Stamford, in a southerly direction up the Niagara River, as far as the line between lots 144 and 145 of Stamford. Both to the north and to the south of this portion, the Ontario Government seem to be the owners in the township of 30 Stamford below the Falls.

Acting under the assumption that the whole of the bank below the Falls was in the Ontario Government, I made application on the 5th March last on behalf of Messrs. Swinyard *et al.* to the Ontario Commissioner of Crown Lands for the right to build and operate the carriage way and footpath along the shore of the Niagara River from the ferry near the Clifton House down the river to Queenston, and also for the



use of the water power of the river to work machinery upon the top of the bank; the water power, however, is entirely situated in front of the Ontario portion of the bank.

On 25th March, 1879, the Ontario Commissioner of Crown Lands replied, and also assuming the right of the Province to the whole of the bank, conceded to the applicants the rights asked for at a fair rental, to be fixed by the Government, but at a nominal rental for a sufficient period to allow of the road being built.

On the faith of this letter, the applicants have incurred an outlay in respect of improvements on the banks of the river, developing the water power, and surveys, 10 for the road, of upwards of \$24,000.

It was not until a recent date, upon our application to the Ontario Government to have the rental fixed, and a lease granted for a term of years, that the Crown Lands Department noticed the Dominion claims to a short portion of the roadway.

The construction of this roadway will present an additional attraction to the Canadian side of the Falls, and can, in no way, interfere with the use of the strip for any Government purpose.

I beg, therefore, to submit that the rights should be granted for a term of years at a low rental to the applicants.

I have the honour to be,

20

Your obedient servant,

J. D. EDGAR.

## No. 131.

LICENSE OF OCCUPATION, CANADA TO NIAGARA PENINSULA BRIDGE COMPANY.

CANADA.

[SEAL]

By His Excellency, the Right Honourable Sir John Douglas Sutherland Campbell (commonly called The Marquis of Lorne), one of Her Majesty's Most Honourable Privy Council, Knight of the Most Ancient and Most Noble Order of the Thistle, and 30 Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor General of Canada, and Vice-Admiral of the same.

To ALL TO WHOM THESE PRESENTS SHALL COME, GREETING :

WHEREAS it is in and by a certain Act of the Parliament of Canada, passed in the forty-second year of Her present Majesty's reign, chaptered nine and intituled : "An Act to Amend and Consolidate The Railway Act, 1868, and the Acts amending it," amongst other things in effect enacted that, whenever it is necessary for a railway company, authorized by a special Act, to construct a railway to occupy any part

*Rec'd  
Subject*



of the lands belonging to the Queen reserved for Naval or Military purposes, they shall first apply for, and obtain, the license and consent of Her Majesty, under the hand and seal of the Governor, and having obtained such license and consent, they may, at any time or times, enter into and enjoy, any of the said lands for the purposes of the railway, but in the case of any such Naval or Military reserves, no such license or consent shall be given, except upon a report first made thereupon, by the Naval or Military authorities, in which such lands are for the time being vested, approving of such license and consent being so given.

AND WHEREAS on or about the twelfth day of April in the year of our Lord 10 one thousand eight hundred and eighty-three, the "Niagara Peninsula Bridge Company" (a body corporate duly authorized to construct a railway, by a special Act of the Parliament of Canada, passed in the forty-fifth year of Her Majesty's reign chaptered eighty-eight) did apply for the license and consent of Her Majesty to enter into, and enjoy, the lands hereinafter described.

NOW THEREFORE KNOW YE, that in consideration of the rents, hereinafter reserved and by and with the advice of Her Majesty's Privy Council for Canada, I DO, by these presents grant full power and authority to the said Niagara Peninsula Bridge Company, their successors and assigns, to enter upon and occupy all that lot, piece, or parcel of land situate, lying, and being, in front of lot number ninety-three 20 (93) of the township of Stamford in the County of Welland, in the Province of Ontario, being part of the town of Niagara Falls, containing three hundred and seventy-five thousand two hundred and seventy-two (375,272) square feet of land, be the same more or less; commencing at a point in the production of the line between lots numbers ninety-two (92) and ninety-three (93) distant sixty-six (66) feet, measured westerly along the production of said lot line, from its intersection with top of bank of the Niagara River, thence southerly always at the distance of sixty-six (66) feet from said top of bank of the Niagara River, and one hundred and thirty-six (136) feet six (6) inches, thence south eighty-seven (87) degrees east parallel to lot line, two hundred and seventy-one (271) feet more or less to water's edge of Niagara River; 30 thence northerly along said water's edge of the Niagara River one hundred and thirty-seven (137) feet, more or less, to the intersection of the line between lots ninety-two (92) and ninety-three (93) produced easterly; thence north eighty-seven degrees west along the production of the said lot line two hundred and eighty (280) feet, more or less, to the place of beginning, and more particularly shewn, colored pink, on a plan\* by M. Gaviller, Provincial Land Surveyor, dated nineteenth April, 1883, a copy of which is hereunto annexed.

PROVIDED always and these presents are upon and subject to the several stipulations, provisos and conditions, hereinafter expressed and contained, that is to say:

1st. THAT the said Niagara Peninsula Bridge Company, their successors or 40 assigns, shall pay or cause to be paid to Her Majesty's Minister of the Interior for

\*NOTE.—*This plan is printed as No. 20, in book of maps and plans being appendix B to Appeal Book.*



Canada, at his Department in the City of Ottawa, in the Province of Ontario, in the Dominion of Canada, or to such other officer as may be authorized to receive the same, the yearly rent or sum of fifty dollars of lawful money of Canada, for each and every year during which the said lands, hereinbefore described, shall be occupied by the said Company, its successors or assigns, as aforesaid.

2. THAT any bridge or other works to be built, made or constructed by the said Company, shall be so built, constructed or made, from the top of the bank of Niagara River westward across the street of the town of Niagara Falls, known as Front Street, and shewn on the accompanying plan, shall not interfere in any way  
10 with the passage of carriages.

3. THAT possession of the whole, or any part of the lands hereinbefore described, and to which the licenses of occupation applies, may be resumed by Her Majesty or Her successors, at any time hereafter, in which case neither the said Niagara Peninsula Bridge Company, their successors or assigns, or any person or persons representing them, shall be entitled to ask, demand or receive any compensation or damages in the premises whatsoever, from Her Majesty or Her successors, the Government of Canada, or from any of Her Majesty's Ministers for Canada, or other officers, agents or servants.

GIVEN under my hand and seal at Arms at Ottawa, this thirtieth day of April in  
20 the year of our Lord one thousand eight hundred and eighty-three, and in the forty-sixth year of Her Majesty's reign.

LORNE.

By Command,

HECTOR L. LANGEVIN,

*Actg. Secretary of State.*

## No. 132.

LETTER FROM MR. J. D. EDGAR TO COMMISSIONER OF CROWN LANDS  
PARDEE, ASKING THAT LEASE BE GRANTED TO MESSRS. HOWARD  
*ET AL.*

30 HON. T. B. PARDEE, M.P.P.,  
Commissioner of Crown Lands,  
Toronto,

TORONTO, October 8th, 1883.

SIR,—I beg to draw your attention to correspondence which I had with your department in 1879, respecting certain privileges desired by Mr. T. Swinyard and others, along the banks of the Niagara River.



Their application included the right to use the water power of the rapids, to work machinery on the top of the bank, but as that portion of their claim stands on a different footing from the rest, I do not wish it dealt with at present.

It is to the other portion of their application to which I would now direct your attention.

I beg to request that a lease may be granted for twenty-one years from this date, to Messrs. Howard & Pierce, of Niagara Falls, Ont., Thomas Swinyard of Hamilton, and Donald C. Ridout, of Toronto, for the right to build, and operate, a carriage road and footpath along the shore of the Niagara River from the Ferry, 10 near the Clifton House, down the river to Queenston, with the right to construct approaches to this road down the bank, at such points as may be most convenient, subject to any rights already granted and now existing.

The proposed roads and works to be constructed and maintained in a safe and proper manner, to the satisfaction of the Commissioner of Public Works.

I would propose that the rental for the first two years should be a nominal one, in order to give time to complete the road, and that, thereafter, the rental should be four hundred dollars per annum.

Your obedient servant,

J. D. EDGAR.

20

## No. 133.

LETTER FROM ASSISTANT COMMISSIONER OF CROWN LANDS JOHNSON  
TO MR. RYKERT, AS TO MUNICIPALITY OF CLIFTON SUB-LETTING  
PART OF RESERVE UNDER THEIR LICENSE OF OCCUPATION.

DEPARTMENT OF CROWN LANDS, ONTARIO.

TORONTO, 1st May, 1884.

10192, '77.

SIR,—I am directed by the Commissioner to acknowledge the receipt of your letter of 26th inst., enclosing copy of Licence of Occupation dated, May, 1862, to the Municipal Council of the town of Clifton, of the chain reserve along the top of the 30 bank of the river Niagara, and the strip of land lying between the said reserve and the water's edge of the river in front of the said town, with certain reservations, and asking if there is any objection to sanction the sub-letting of a small strip at the water's edge near the Clifton House, where the ferry crosses the river, and below the bank, to a Ferry Company, so as to enable them to land their passengers, and also to erect a small building for ferry purposes, and to say in reply, that the Commissioner



does not see any objection to the Corporation sub-letting the small strip in question, for the purpose mentioned in your letter, as you say it has been used in this way for years.

I am sir, your obedient servant,

THOS. H. JOHNSON,

*Assistant Commissioner.*

J. C. RYKERT, Esq., M.P.

St. Catharines.

## No. 134.

### 10 LEASE FROM CORPORATION OF NIAGARA FALLS TO MESSRS. CARTER AND LEBLOND OF THE LAND AT FERRY LANDING.

THIS INDENTURE made in duplicate the fourteenth day of June, in the year of Our Lord, one thousand eight hundred and eighty-four, in pursuance of the Act Respecting Short Forms of Leases,

BETWEEN the Municipal Corporation of the Town of Niagara Falls, hereinafter called the Lessor of the first part, and Richard F. Carter, of the said Town of Niagara Falls, Esquire, and Frank LeBlond, of the same place, Esquire, hereinafter called the Lessees of the second part.

WHEREAS, the said lessors are at present in possession of the premises herein-  
20 after described, with other lands, under and by virtue of a certain License of Occupation from the Commissioner of Crown Lands for the Province of Ontario, then the Province of Upper Canada, bearing date the twenty-seventh day of May, in the year of our Lord, one thousand eight hundred and sixty-two; and the said lessees have applied to them for a sub-lease of that portion of the said premises hereinafter described.

AND, WHEREAS, A. M. Burgess, Deputy Minister of the Interior, has by letter dated 31st May, 1884, signified his assent on behalf of the Dominion Government, to the leasing of the ferry by the town, to the aforesaid R. F. Carter and Frank LeBlond.

30 AND, WHEREAS, the Commissioner of Crown Lands has, by letter bearing date the first day of May, in the year of our Lord, one thousand eight hundred and eighty-four, signified his assent to the said sub-letting of the said premises, and the said lessors have, by resolution, agreed to sublet the said premises to the said lessees, upon the terms hereinafter set forth.

WITNESSETH that in consideration of the rents, covenants and agreements hereinafter reserved and contained, on the part of the said lessees, their and each of their

Moore approves of leasing the Ferry only

executors, administrators and assigns, to be paid, observed and performed, the said lessors, so far as they are empowered to, have demised and leased, and by these presents, do, so far as they are empowered to, demise and lease unto the said lessees, their executors, administrators and assigns, all that certain parcel or piece of land, lying between the eastern edge of the St. Catharines, Thorold and Niagara Falls Macadamized Road Company and the water's edge of the Niagara River, and which is more particularly described as follows :—Commencing at the Canadian extremity of the Upper Suspension Bridge, and running in a southerly direction along the easterly side of the St. Catharines, Thorold and Suspension Bridge Macadamized Road Company for a distance of sixteen hundred feet, thence in an easterly direction following the most direct course to the waters of the Niagara River, thence in a northerly direction along the water's edge and following the windings thereof to a point directly beneath the said upper bridge, and thence in a westerly direction to the place of beginning, being fronts of township of Stamford lots number 129 broken front, and 144 broken front.

*20 Years*

TO HAVE AND TO HOLD the said demised premises for and during the term of twenty years, to be computed from the thirteenth day of June, in the year of our Lord, one thousand eight hundred and eighty-four, and from thenceforth next ensuing and fully to be computed and ended, yielding and paying therefor, yearly, and every 20 year during the said term hereby granted unto the said lessors, their successors and assigns, the sum of one hundred and fifty dollars to be payable on following days and times, that is to say, in equal portions on the 13th days of June and December in each and every year, during the said term, without any deduction, defalcation or abatement whatsoever; the first of such payments to become due and be made on the 13th day of December, in the year of our Lord, one thousand eight hundred and eighty four, and the last of such payments to become due and payable in advance, on the 13th day of June, one thousand nine hundred and four.

AND the said lessees jointly and severally covenant with the said lessors, to pay rent, and to pay taxes, and to repair and to keep up fences, and not to cut down 30 timber; and that the said lessor may enter on and view the state of repair, and that the said lessees will repair according to notice, and will not assign or sublet without the written consent of the said lessors first had and obtained in writing, and will not carry on, on said premises, any business or occupation which may be offensive, or annoying to the said lessors or their assigns, and that they will leave the premises in good repair, and that they will, at all times during the said term hereby granted, maintain and keep the present existing public road, leading over the said premises hereby demised, to the ferry landing, in a good and proper state of repair, and so that the public may travel over the same as heretofore, and that they will, at all times, keep and allow the said road within one hundred feet from the water's edge to 40 remain open, for the free use of the public.

This was limited to the front of Lots 129  
and 141

AND ALSO, that if the term hereby granted shall be at any time seized or taken in execution or in attachment, by any creditor of the said lessees or either of them or their assigns, or if the said lessees, or either of them or their assigns, shall make any assignment for the benefit of creditors, or becoming bankrupt, or insolvent, shall take the benefit of any act that may be in force for bankrupt or insolvent debtors, the then current half year's rent shall immediately become due and payable, and the said term shall immediately become forfeited and void. Proviso for re-entry by the said lessors on non-payment of rent or non-performance of covenants.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals.

10 Signed, sealed and delivered }  
in presence of }  
ALEXANDER LOGAN. }  
Countersigned,  
J. ROBINSON, *Town Clerk.*

JOHN WAUGH,  
*Mayor.*

Seal of  
Corporation.

R. F. CARTER.  
FRANK LEBLOND.

## No. 135.

LETTER FROM E. MIALL, COMMISSIONER INLAND REVENUE, CANADA,  
TO ASSISTANT COMMISSIONER OF CROWN LANDS JOHNSON, RES-  
PECTING GRANT OF LICENSE OF FERRY LANDING.

OTTAWA, June 17th, 1884.

T. H. JOHNSON, Esq.,  
Assistant Commissioner of Crown Lands,  
Toronto, Ont.

SIR,—This Department has been informed that application has been made to the Provincial Government of Ontario, through the Department of Crown Lands, for permission to grant a ferry license at Niagara Falls, and that the Commissioner of Crown Lands has intimated his willingness to grant the same.

I take it for granted, there is some misunderstanding of the matter on the part 30 of the person through whom the information has been conveyed to this Department, otherwise the Commissioner must, for the moment, have lost sight of the fact that the ferry in question is an international one and, as such, is by the British North America Act, sec. 91, subsec. 18, under the control of the Dominion Government.

I take it that, if there is any misunderstanding, the simplest method of disposing of it, is thus to draw your attention to the matter, and to ask you to be good



enough to take such action as may seem fit to you, to remedy it, if it has arisen from any oversight on the part of your Department.

I shall be glad also if you will communicate to me what action you have taken.

I have the honour to be, Sir,

Your obedient servant,

E. MIALL,  
*Commissioner.*

## No. 136.

LETTER FROM ASSISTANT COMMISSIONER OF CROWN LANDS JOHNSON  
10 TO MR. MIALL IN REPLY.

DEPARTMENT OF CROWN LANDS,

SALES AND FREE GRANTS BRANCH,

TORONTO, 19th June, 1884.

43532

SIR,—In reply to your letter of the 17th inst., respecting the ferry at Niagara Falls, I am directed by the Commissioner to send you copies of the correspondence in connection with the matter, which copies are herewith enclosed.

When the letter of 1st May last was written to Mr. Rykert, the Department was under the impression that the piece of land proposed to be sublet was a part of the 20 Ordnance Reserve which had been surrendered prior to Confederation, as there was not a clear understanding where the ferry was.

It now appears, upon further investigation, that the piece of land referred to, is a part of the reserve that never has been surrendered; and that this Department had and has no control over it, and I have advised Mr. Rykert of the fact, and have sent him a copy of this letter.

I have the honour to be, Sir,

Your obedient servant,

THOS. H. JOHNSON,

*Asst. Commissioner.*

30 E. MIALL, Esq.,

Commissioner of Inland Revenue,  
Ottawa.



See the Sub Lease to  
Carter & LeBlond at page 456

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No. 137.

LEASE FROM CANADA TO CORPORATION OF TOWN OF NIAGARA  
OF LAND AT FERRY.

JOHN J. McGEE, DEPUTY-GOVERNOR, CANADA.

VICTORIA BY THE GRACE OF GOD, OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
IRELAND, QUEEN, DEFENDER OF THE FAITH, &c., &c.

To all to whom these presents shall come,

GREETING:

WHEREAS the corporation of the Town of Niagara Falls, in the Province of  
10 Ontario, in Our Dominion of Canada, has applied to us for a lease or license of occu-  
pation of the ferry landing a short distance below the Niagara Falls, with power to  
sublet the same to a pleasure boat company:

AND WHEREAS an order of our Governor General of Canada in Council was  
passed on the twenty-seventh day of March, in the year of Our Lord, one thousand  
eight hundred and eighty-five, authorizing the granting of such application upon  
the terms and conditions hereinafter set forth:

NOW THEREFORE KNOW YE, that in consideration of the rent hereinafter  
reserved, and by and with the advice of Our Privy Council for Canada, we do by  
these presents demise and lease to the said the corporation of the town of Niagara  
20 Falls, their successors and assigns, the said ferry landing, described as follows, that  
is to say:—

COMMENCING at a point at the water's edge of the Niagara River, and at the  
distance of sixty feet on a course north fifty-five and a half degrees east from the  
north side of a wharf erected for the ferry landing; thence north thirty-three and a  
half degrees west, thirty-five feet; thence south eighty-four degrees west, seventy  
feet; thence north twenty and a half degrees west, one hundred and seventy feet  
more or less to the iron fence built by the Ontario Government on the top of the bank  
of the said Niagara River; thence south eighty-four degrees west on line of said iron  
fence twenty-five feet; thence south twenty and a half degrees east one hundred  
30 and seventy feet; thence south eighty-four degrees west two hundred feet;  
thence south twelve degrees west one hundred and eighty feet; thence south  
forty-nine degrees east fifty feet more or less to the water's edge of the Niagara River;  
and thence in a north-easterly direction, following the water line of the said river  
with the stream, to the place of beginning, containing by admeasurement about one  
acre of land, and being that portion below the cliff of the Nigara River in front of lot  
number one hundred and forty-four of the township of Stamford, and within the  
incorporate limits of the town of Niagara Falls, and more particularly shown on the  
plan hereunto annexed.



TO HAVE AND TO HOLD the same to the said the Corporation of the town of Niagara Falls, their successors and assigns during our pleasure.

PROVIDED ALWAYS and these presents are upon and subject to the several provisos, stipulations and conditions hereinafter expressed and contained, that is to say:—

1. THAT the said Corporation of the town of Niagara Falls, their successors or assigns, shall pay or cause to be paid to our Minister of the Interior of Canada at his department in the city of Ottawa, in the said Province of Ontario, or to such officer as may be authorized to receive the same, the yearly rent or sum of one dollar of 10 lawful money of Canada, for the same, for each and every year that the same may be occupied by the said the Corporation of the town of Niagara Falls, their successors or assigns, free and clear of all taxes, rates or other impositions; the same to be paid in yearly instalments of one dollar each on the first day of May, in each and every year; that the same shall be so occupied as aforesaid.

2. THAT no more buildings shall be erected on the land and premises hereby demised.

3. That possession of the land and premises hereby demised may be resumed by us, or our successors at any time hereafter, in which case neither the said the Corporation of the town of Niagara Falls, their successors or assigns, or any person or 20 persons representing them, shall be entitled to ask, demand or receive any compensation or damages in the premises whatsoever from us, or our successors, the Government of Canada, or from any department, minister, officer, agent or servant thereof.

IN TESTIMONY WHEREOF, we have caused these our letters to be made patent, and the Great Seal of Canada to be hereunto affixed. Witness John Joseph McGee, Esquire, Deputy of our Right Trusty and Entirely Beloved Cousin, the Most Honourable Sir Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne, in the County of Somerset, Earl of Wycombe of Chipping Wycombe, in the County of Bucks, Viscount Calne and Calnstone, in the County of Wilts, and Lord Wycombe Baron of Chipping Wycombe, in the County of Bucks, in the Peerage of Great Britain, Earl of Kerry, and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw and Dunkerron, in the Peerage of Ireland, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Governor General of Canada, and Vice-Admiral of the same; at Our Government House, in the City of Ottawa, this twenty-seventh day of March, in the year of Our Lord, one thousand eight hundred and eighty-five, and in the forty-eighth year of our reign.

*27 March  
1885*

By Command,

G. POWELL,

*Under Secretary of State.*

GEO. W. BURBIDGE,  
Deputy of the Minister of Justice,  
Canada.

No Compensation if resumed

## No. 138.

### ORDER IN COUNCIL (CANADA) UPON THE APPLICATION OF DEFENDANTS FOR LEASE OF LANDS IN QUESTION AND APPROVING OF THE SAME.

*Certified Copy of a Report of a Committee of the Honourable the Privy Council, Approved by His Excellency the Governor General in Council, on the 5th June, 1886.*

On a Memorandum dated 25th May, 1886, from the Minister of the Interior, representing that an application made in December, 1879, by Messrs. Thomas Swinyard, H. F. Pierce and G. H. Howard, for the right to construct and operate a carriage way and foot-path along the shore of the Niagara River below the top of the bank in a southerly direction from the dividing line between lots 92 and 93, as far as the line between lots 144 and 145 of the township of Stamford, together with the privilege of building two tramways or elevators from the water's edge with the use of sufficient ground on the top of the bank to operate the same, has again been renewed in their behalf.

The Minister observes that in January following the date of their first application, Colonel Dennis, at that time Deputy of the Minister of the Interior, visited the locality and reported at considerable length upon the merits of the case; a copy of which report is hereunto annexed.

20 That a similar application was made in March, 1879, to the Government of the Province of Ontario by the same company, for the right they are now seeking, and that Government, assuming the Province had the right to deal with the land in question, conceded the privilege asked for, with the understanding that only a nominal rental would be charged until the completion of the road, after which a fair rent would be fixed and a lease given.

That on account of the consent thus obtained from the Ontario Government, the applicants have incurred an outlay of upwards of \$10,000, in respect of improvements, developing the water power, and surveys for the road; and when they applied to the Government of Ontario for a formal lease for a term of years, it was 30 discovered that a part of the lands applied for was vested in the Dominion Government. That in order to complete their scheme, it is necessary the applicants should have a lease of a portion of the river bank now under the control of the Minister of the Interior.

The Minister further observes that parts of the land now applied for have at different times, and for various purposes, been disposed of, to wit: part of lot 93, 137 feet in width from the water's edge of the Niagara River to the top of the bank, by license of occupation granted to the Niagara Peninsula Bridge Company, in the year 1884, at an annual rental of \$50, and part of lot 129, 200 feet in width, by letters patent to the Clifton Suspension Bridge Company, in 1873, for the sum of forty 40 dollars.



The Minister seeing no objection to granting the rights asked for, in so far as relates to the portion of the reserve which still remains at the disposal of the Government, recommends that a lease for twenty-one years of so much of the chain reserve at the disposal of the Government, as will enable the applicants to build a carriage way and foot path along the shore of the Niagara River, below the top of the bank, in a southerly direction from the dividing line between lots 92 and 93, as far as the line between lots 144 and 145 of the township of Stamford, with the privilege of constructing two tramways or elevators from the water's edge, and with the use of sufficient ground on the chain reserve at the top of the bank, to work said 10 tramways, on the following terms and conditions:—

1. The lease to be at a nominal rental of \$1 per annum for a sufficient period to allow the road to be built, say two years, after which time the rent payable shall be \$50 per annum.
2. The road to be built and in operation within two years from the date of the lease.
3. The lease to be subject to any sale, lease, right or privilege already existing.
4. That the road is built and protected in a manner satisfactory to the Minister of the Interior.
5. That the rates of fare and fees chargeable to the public by the company shall 20 be subject to the approval of the Governor in Council.

The Committee advise that authority be granted to issue a lease on the terms and conditions specified above, as recommended by the Minister of the Interior; with the further condition that the said lease may be cancelled whenever the land leased, or any portion thereof, is required for building purposes, in which case there shall be no claim for compensation.

JOHN J. McGEE,  
*Clerk, Privy Council.*

EXTRACT FROM COL. DENNIS'S REPORT, DATED 13TH FEB., 1880.

Visited Niagara River to make myself conversant with the privileges sought for 30 by Messrs. Swinyard & Co., and found that under a letter of occupation from the Government of Ontario, they had constructed a raceway and power for driving machinery, extending from a point about one hundred yards above the Railway Suspension Bridge, to a point two hundred yards below the same, by which they were operating a grist mill (brick), built on a level with the town of Clifton.

The raceway furnishing this power is above the bridge, partly on the property of the Dominion Government. For this no authority has yet been given, but it forms part of the privilege asked for by the applicants. I am of the opinion that, should the Ontario Government be willing to meet the views of Messrs. Swinyard & Company, it would be in the public interest for the Dominion Government to



co-operate with them and grant corresponding concessions to the Company, always providing :—

(a.) That the road is built and protected in a manner satisfactory to the Minister of the Interior;

(b.) That the rates of fare and fees chargeable to the public, by the Company, shall be subject to approval of the Governor in Council; and

(c.) That a fair and reasonable rental shall be paid by the Company for the privileges conceded. On such a basis, I think a long lease might be given to the applicants. Indeed none other than a long lease would answer their purposes, on account of the very great expenditure they would require to incur.

## No. 139.

### CORRESPONDENCE ENSUING UPON THE APPLICATION OF THE NIAGARA FALLS CAMP MEETING ASSOCIATION FOR LEAVE TO CONSTRUCT A STAIRWAY ON SLOPE OF BANK IN FRONT OF LOT 128.

LETTER FROM MCCLIVE & GILLELAND TO ATTORNEY-GENERAL MOWAT OF ONTARIO.

ST. CATHARINES, ONT., July 16th, 1886.

HON. OLIVER MOWAT, Q. C.,

Attorney-General for Province of Ontario.

20 DEAR SIR,—We are solicitors for the Niagara Falls International Camp Meeting Association, for whom we obtained an Act of incorporation from the Provincial Legislature at the session of 1885.

They have acquired about 280 acres of land, fronting some 30 chains on the Niagara River, midway between the falls and the Lower Suspension Bridge, and the easterly boundary of the lands approaches within about 200 yards of the Upper Suspension Bridge.

Two-thirds of this land has been sold for building lots, intended for summer residential purposes, under stringent regulations.

We enclose you a map showing the front portion of the property, but which does not show a large portion of the rear of the property which the Association acquired by a second purchase.

Quite a number of persons are building and a large number of persons are upon the grounds, during the summer, for the purpose of attending religious services, and also for the purpose of recreation.



The committee in charge of the Association desire leave to construct a stairway, from the upper bank to the water's edge of the river, in front of the grounds of the Association.

Also the privilege of making an opening in the iron fence along the bank of the river, to enable the top of the stairs to be reached from the highway.

We may say at this point that the Crown has had, for the purpose of protecting the public from falling over the bank an iron fence constructed, consisting of iron poles drilled into the rock, at a distance apart of six feet, and an iron railing running parallel with the surface, between the old Suspension Bridge and the Falls.

- 10 The Association will erect a movable stile at this opening, so that no one can be injured.

Will you kindly permit the Association to cut this iron fence, so that the public may approach a stairway at some point on the river; and also permit the Association to construct this stairway at some point opposite the property, and to place a stile for the purpose of entering the stairway and still protect the public from falling over the bank.

- It is not the intention of the Association to charge for going down, nor do they desire to, in any way, establish a ferry, nor to permit the place to be used for ferry purposes, except that they desire that the new steamer plying about the Falls may 20 be permitted to approach at this point.

We are inclined to think that a personal interview would be desirable, and if you would kindly intimate to our Mr. McClive, he and the Rev. Mr. Osborne, President of the Association, will call upon you at any day or hour you may designate.

We ask as prompt attention as you can possibly give to the matter, from the fact that the Association desires to build a stairway this summer and at once.

We remain, your obedient servants,

McCLIVE & GILLELAND.

LETTER FROM McCLIVE & GILLELAND TO CROWN LANDS COMMISSIONER  
30 PARDEE.

ST. CATHARINES, ONT., July 20th, 1886.

HON. T. B. PARDEE,  
Commissioner Crown Lands,  
Toronto.

DEAR SIR,—We communicated on the 16th with the Hon. the Attorney-General for this Province, on behalf of the Niagara Falls International Camp Meeting Association, with a view to obtain on behalf of this Association, the right to

The Iron fence between the Old Suspension  
Bridge and the Falls.

Journals of Ontario 1882 page 153  
Vol XV - 9 March 1882 - Resolution

"Towards Cost of Fence etc along  
the Niagara River 5000 dollars

Onto flat 45 V.C 1 Schedule page 6

10 March 1882  
"Fence at Niagara Falls 5000"

construct a stairway from the top bank to the water's edge of the Niagara River, opposite their grounds.

We learn that our favour of the 16th has been transmitted to your office.

We would take it as a great favour if the matter could receive immediate attention, from the fact that the season is now passing rapidly away, and the Association desire at once to construct the stairway.

If you desire it, or think it at all advisable, our Mr. McClive, who has the matter in charge, and the President of the Association, the Rev. W. B. Osbourne, will call upon you at any day or any hour that you may designate.

10

We remain, yours respectfully,

McCLIVE & GILLELAND.

LETTER, ASSISTANT CROWN LANDS COMMISSIONER JOHNSON TO  
McCLIVE & GILLELAND.

21st JULY, 1886.

MESSRS. MCCLIVE & GILLELAND,  
St. Catharines.

GENTLEMEN,—I am in receipt of your letter of the 16th inst. addressed to the Hon. Attorney-General, asking that permission be given the Niagara Falls International Camp-meeting Association, to cut the iron fence on the Chain Reserve on the 20 bank of the Niagara River, and to construct a stairway from such point down the bank to the river below, and have to say that, before the matter can be considered, it will be necessary to show whether the proposed point of cutting and the location of the stairway, are in front of lot 144 in the original survey of the township of Stamford, or in front of lot 145.

The plan put in by you, does not furnish this information.

THOS. H. JOHNSON.

W. H. MCCLIVE TO ASSISTANT COMMISSIONER JOHNSON.

ST. CATHARINES, ONT., July 23, 1886.

THOS. H. JOHNSTON, Esq.,  
30 Assistant Commissioner Crown Lands,  
Toronto.

DEAR SIR,—The stairway will be in front of either Lot 111 or Lot 128, I cannot say which, from the fact that I am not informed by my clients, precisely where the stairway is to be placed that they wish to be put down.

The Association acquired by purchase from the Benders a slip of ground extending from the Niagara River and running back to the Falls, one mile in length.

The Infirme.

The Association lands fronting the river cover parts of Lots 111 and 128. The location is about half-way between the Falls and the old Suspension Bridge, and perhaps some six hundred yards further down the river than the new Suspension Bridge.

If you desire to know whether the stairway will be in front of Lot 111, or in front of Lot 128, kindly write me, and I will at once make the necessary inquiries.

Lots 144 and 145 are much nearer the Falls : they are quite adjacent to the Falls and are being taken for park purposes, so far as they lie adjacent to the river, and I infer this is the reason why you make the inquiries in your favour of yesterday.

10

I remain,

Yours respectfully,

W. H. McCLIVE.

LETTER McCLIVE & GILLELAND TO ASSISTANT COMMISSIONER JOHNSON.

ST. CATHARINES, ONT., July 24th, 1886.

THOS. H. JOHNSON, ESQ.,

Assistant Commissioner Crown Lands,  
Toronto.

DEAR SIR.—The stairway in question, we have just learned, will be on Lot 128, 20 near the middle of the lot.

Yours respectfully,

McCLIVE & GILLELAND.

LETTER, ASSISTANT COMMISSIONER JOHNSON TO McCLIVE & GILLELAND.

MESSRS. McCLIVE & GILLELAND,

St. Catharines.

July 26th, 1886.

GENTLEMEN,—I am in receipt of your letter of 25th inst., also of 24th inst., in which you say that the stairway proposed to be built by the Niagara Falls International Camp-meeting Association, will be in front of Lot 128, in the original survey of Stamford, and to have to say in reply that the department cannot deal with the application, as it is considered the Chain Reserve, and face of the bank in front of said lot, were ordnance lands at the date of the British North America Act. Application should therefore be made to the Department of the Interior, Ordnance and Admiralty Branch, at Ottawa.

THOS. H. JOHNSON.



October 26th, 1886.

MESSRS. MCCOLIVE & GILLELAND,  
St. Catharines.

DEAR SIRS.—On the 26th July last a letter written to you in answer to communications from you on behalf the Niagara Falls International Camp-meeting Association, for leave to construct a stairway from the upper bank to the water's edge of the Niagara River, in front of lot 128 in the Original Survey of Stamford, in which it was stated that the Chain Reserve, and face of the bank in front of said lot, were Ordnance lands;

10 I am now directed by the Commissioner to say that this Department is in receipt of information from the Attorney-General's Department, that the land between the top of the bank and the water's edge of the river, in front of said lot, is vested in and is the property of the Province of Ontario.

And I am instructed to say, it is not desirable that the Association should take any proceedings towards the construction of the proposed stairway until further advised.

THOS. H. JOHNSON.

## No. 140.

LEASE FROM CANADA TO MESSRS. SWINYARD, PIERCE AND HOWARD  
20 OF LANDS IN QUESTION.

JOHN J. McGEE, DEPUTY-GOVERNOR, CANADA.

(Seal.)

GEORGE W. BURBIDGE,

Deputy of the Minister of Justice, Canada.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c., &c.

To ALL TO WHOM THESE PRESENTS SHALL COME: GREETING,

WHEREAS Thomas Swinyard, of Morristown, in the State of New Jersey, one of the United States of America, gentleman, Henry F. Pierce, of Niagara Falls, in 30 the State of New York, another of the United States of America, merchant, and George H. Howard, of Niagara Falls, in the Province of Ontario, in our Dominion of Canada, banker, hereinafter called the lessees, have applied to us, for a lease or license of occupation, of the lands and privileges hereinafter mentioned and described, for the purpose of constructing and operating a carriage-way and foot-path along the shore of the Niagara River;



AND WHEREAS an Order of our Governor in Council was passed on the fifth day of June, in the year of Our Lord one thousand eight hundred and eighty-six, authorizing the granting of such application, upon the terms and conditions herein-after set forth.

NOW THEREFORE KNOW YE, that for and in consideration of the rent hereinafter reserved, and by and with the advice of Our Privy Council for Canada, We have demised and leased, and We do, by these presents, demise and lease, unto the said lessees their executors, administrators and assigns, ALL AND SINGULAR the lands following, that is to say: so much of the chain reserve as will enable the lessees to build a carriage-way and foot path along the shore of the Niagara River, below the top of the bank, in a southerly direction from the dividing line between lots ninety-two and ninety-three, to the dividing line between lots one hundred and forty-four and one hundred and forty-five, in the township of Stamford, in the county of Welland, excepting thereout such portions of the said lands as have been heretofore disposed of by Us, either by lease, license of occupation or otherwise.

TOGETHER with the privilege of constructing two tramways or elevators from the water's edge, with the use of sufficient ground on the chain reserve at the top of the bank, to work said tramways.

TO HAVE AND TO HOLD the said lands and premises hereby demised and leased, or intended so to be, with the appurtenances thereto belonging, unto the said lessees their executors, administrators and assigns for and during and unto the full end and term of twenty-one years, to be computed from the first day of June, in the year of Our Lord one thousand eight hundred and eighty-six.

YIELDING AND PAYING therefor, yearly, for the first two years of the said term, the clear yearly rent or sum of one dollar, and yearly, and every year thereafter during the said term, the clear yearly rent or sum of Fifty dollars; such payments to be made in advance on the first day of June in each and every year during the said term, the first of such payments to be made on the first day of June, in the year of our Lord one thousand eight hundred and eighty-six, and all such payments to be made without any deduction or abatement, for or in respect of any taxes, rates, duties or assessments which are, or may be hereafter, imposed upon the said lands and premises.

PROVIDED ALWAYS, and these presents are upon and subject to the several provisos, conditions, stipulations and restrictions hereinafter expressed and contained, that is to say:

1. The location of the said carriage road and foot path, and of the said tramways or elevators, shall be subject to the approval of the Minister of the Interior of Canada, and the said lessees shall, within one year from the first day of June, in the year of our Lord, one thousand eight hundred and eighty-six, file in the Department of the Interior, plans showing accurately such location and the quantity of land



taken by them, and upon approval of such plans by the said Minister of the Interior, the lands shown thereon as taken by the said lessees, shall be taken to be the lands demised and leased by these presents, and such plans shall be held to be incorporated with and to form part of these presents.

2. The said carriage road and foot path shall be built and in operation, within two years from the beginning of the said term.

3. This lease shall be subject to any sale, lease, right or privilege already existing.

4. The said carriage road and footpath, shall be built and protected in a manner satisfactory to the said Minister of the Interior.

10 5. The rates of fare and fees chargeable to the public by the company, shall be subject to the approval of the said Minister of the Interior, and no such fares or fees shall be collected by the company until the same have been approved by him.

6. In default of payment of the rent hereby reserved, or any part thereof, for thirty days after any of the days upon which the same is payable, although no formal demand shall have been made therefor, or in case the said lessees shall, at any time during the said term, fail to keep, observe, perform and abide by any of the provisos, conditions, limitations and restrictions herein contained, then these presents, and everything therein contained, shall be null and void to all intents and purposes whatsoever, and the lands and premises hereby demised and leased, and every part 20 and parcel thereof, shall revert to and become vested in us, and our successors, in like manner as if these presents had never been issued, anything herein contained to the contrary notwithstanding.

GIVEN under the Great Seal of Canada.

WITNESS : John Joseph McGee, Esquire, Deputy of Our Right Trusty and entirely Beloved Cousin, The Most Honourable Sir Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne in the County of Somerset, Earl of Wycombe of Chipping Wycombe in the County of Bucks, Viscount Calne and Calnstone in the County of Wilts, and Lord Wycombe, Baron of Chipping Wycombe in the County of Bucks, in the Peerage of Great Britain ; Earl of Kerry and Earl of Shelburne, 30 Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw and Dunkerron in the peerage of Ireland ; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Governor General of Canada and Vice-Admiral of the same ; at Ottawa, this twenty-eighth day of August, in the year of Our Lord, one thousand eight hundred and eighty-six, and in the fiftieth year of our reign.

By command,

G. POWELL,

*Under-Secretary of State.*



**No. 141.**

LETTER, UNDER-SECRETARY OF STATE TO COLONEL GZOWSKI.

DEPARTMENT OF THE SECRETARY OF STATE, CANADA,

OTTAWA, 23rd March, 1887.

SIR,—I have the honour to acknowledge the receipt of your letter of the 17th instant, asking the nature and terms of the lease for the ferry at the Niagara River, and to state that the matter will receive attention.

I have the honour to be, Sir, your obedient servant,

G. POWELL,

10

Colonel C. S. Gzowski,

*Under-Secretary of State*

Toronto, Ont.

**No. 142.**

LETTER FROM COLONEL GZOWSKI, CHAIRMAN PARK COMMISSIONERS,  
TO UNDER-SECRETARY OF STATE, CANADA, ACKNOWLEDGING  
RECEIPT OF COPY OF LEASE TO TOWN OF NIAGARA FALLS.

TORONTO, 25th March, 1887.

SIR,—I have the honour of acknowledging your letter No. 1407, accompanied by copy of the lease from Her Majesty the Queen to the Corporation of the Town of 20 Niagara Falls, for which I thank you.

I remain,

Your obedient servant.

C. S. GZOWSKI,

*Chairman Commr's. Niagara Falls Park.*

*see page 463*  
G. POWELL, Esq.,

Under-Secretary of State,  
Ottawa.



## No. 143.

### ORDER IN COUNCIL (CANADA) DIRECTING INQUIRY TO BE MADE WITH REFERENCE TO TITLE TO LAND BETWEEN TOP OF BANK AND WATER'S EDGE, BETWEEN NIAGARA AND FORT ERIE.

REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY  
HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, ON THE 7TH APRIL, 1887.

On a Memorandum, dated 28th March, 1887, from the Minister of the Interior representing that by the Act 19 Victoria, Chapter 45, of the Statutes of the Province of Canada, intituled, "An Act for transferring to one of Her Majesty's Principal Secretaries of State the powers and estates and property therein described, now vested in the Principal Officers of Her Majesty's Ordnance, and for vesting other part of the Ordnance Estates and property therein described, in Her Majesty the Queen, for the benefit, use and purposes of this Province," certain properties described in the 2nd Schedule annexed thereto, became vested in the Government of Canada.

That no mention, whatever, is made of the "Chain Reserve" extending along the bank of the River "Niagara," in either the Schedule referred to, or in that annexed to the Act 7 Victoria, Chapter 11 (known as the Vesting Act), although in the Schedule of Ordnance properties received over from W. R. Orde, Colonel Commanding the Royal Engineers, on the 5th November, 1856, by William F. Coffin, Ordnance Lands Agent, acting on behalf of the Government of Canada, the following entry appears:—

#### NIAGARA.

"The Chain Reserve along the bank of the river Niagara, between Niagara and Fort Erie excepting the two portions above and below the Falls already surrendered to the Provincial Government by deed, 1st October, 1852."

That the land granted by the deed referred to, is described as commencing at a distance of one chain from the top of the bank of the river Niagara, and extending to the water's edge thereof, and as it is probable that the arrangements now being made, in connection with the establishment of the International Park at Niagara Falls, may have the effect of raising the question, as to whether the slope of the bank extending from the Chain Reserve at the top of the bank to the water's edge, is vested in the Dominion Government, or in the Government of the Province of Ontario; it is very desirable that the Dominion Government should be in a position to produce, when required, satisfactory and conclusive evidence of its right of ownership, which evidence at the present time it does not possess.

The Committee concur in the foregoing report of the Minister of the Interior, and recommend that Your Excellency be moved to communicate with the Right Honourable the Secretary of State for the Colonies, with the view of obtaining from the War Office, such information in relation to the Chain Reserve along the top of



the bank of the Niagara River, and the slope extending from the top of the bank to the water's edge, between Niagara and Fort Erie, as may be found on record in that Department.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. McGEE,

*Clerk, Privy Council.*

### No. 144.

#### LEASE—CORPORATION OF NIAGARA FALLS TO CARTER AND LE-BLOND.

10 THIS INDENTURE made, in triplicate, the twenty-seventh day of April, A.D. 1887, in pursuance of the Act respecting short forms of leases;

Between the Corporation of the town of Niagara Falls, hereinafter called the lessors of the first part, and Richard F. Carter, of the said town of Niagara Falls, mariner, and Frank LeBlond, of the same place, steamboat owner, hereinafter called the lessees of the second part.

Whereas, by an indenture of lease bearing date the 14th day of June, 1884, and purporting to be made in pursuance of the Act respecting short forms of leases, and made between the municipal corporation of the town of Niagara Falls, thereafter called the lessors of the first part, and the said Richard F. Carter and Frank LeBlond, 20 thereafter called the lessees, of the second part, the said corporation, in consideration of the rents, covenants and agreements expressed and contained in the said lease, did grant and lease, so far as they, the said corporation, had, at the time of the making of the said lease, powers so to do, to the said Carter and LeBlond, their executors, administrators and assigns, the messuages and tenement therein mentioned, and hereinafter intended to be released and confirmed, as by the said lease, relation being thereunto had, may more fully appear.

And whereas at the time of the making of the said lease, the said lessors were in possession of the said land and premises, under and by virtue of a certain license of occupation from the Commissioner of Crown Lands for the Province of Ontario, then 30 the Province of Upper Canada, bearing date the 27th day of May, 1866.

And whereas at the time of the granting of the said license of occupation, by the said Province of Upper Canada, and at the time of the making of the said lease by the said lessors to the said lessees, the said province was not the owner of the said land, and had not the right or power to grant such lease of occupation, but the title to the said land was then vested in and held by Her Majesty's Principal Secretary

1862

As a matter of Law the Land in question in  
1862 was the property of the Late Province  
of Canada <sup>by virtue of the Act of 1856</sup> - and became the property of  
Dominion by the B.N.A. Act in 1867

This land in 1862 at the time of the license

of State for and on behalf of Her Majesty, and was then the property of the Dominion of Canada.

And whereas upon the application of the said lessors, the Government of the Dominion of Canada, under and by virtue of an indenture of lease, bearing date the 27th day of March, 1885, and under the Great Seal of Canada, did grant and lease to the said lessors, the said land and premises upon the terms in the said lease contained.

Now, this indenture witnesseth that in consideration of the premises, and in consideration of one dollar paid by the said lessees to the said lessors, before the en-  
10 sealing of these presents (the receipt whereof is hereby acknowledged), and in consider-  
ation of the rents, covenants and agreements contained in the said lease, bearing  
date the said 14th day of June, 1884, the said Corporation of the town of Niagara  
Falls do hereby confirm the said lease and do, so far as they have the power so to do,  
hereby demise and lease unto the said lessees, their and each of their executors, ad-  
ministrators and assigns,

All and singular that certain parcel or tract of land and premises situate, lying  
and being in the town of Niagara Falls, in the county of Welland, and lying be-  
tween the eastern edge of the road of the St. Catharines, Thorold and Niagara Falls  
Macadamized Road Company and the water's edge of the Niagara River, and which  
20 is more particularly described as follows :—

Comméncing at a point at the water's edge of the Niagara River, and at the  
distance of sixty feet on a course north, fifty-five and a half degrees east from the  
north side of a wharf erected for the ferry landing; thence north thirty-three and a  
half degrees west thirty-five feet; thence south eighty-four degrees west seventy  
feet; thence twenty and a half degrees west one hundred and seventy feet, more or  
less, to the iron fence built by the Ontario Government on the top of the bank of the  
said Niagara River; thence south eighty-four degrees west on line of said iron  
fence twenty-five feet; thence south twenty and a half degrees east one hundred and  
seventy feet; thence south eighty-four degrees west two hundred feet; thence  
30 south twelve degrees west one hundred and eighty feet; thence south forty-nine  
degrees east, fifty feet more or less to the water's edge of the Niagara River; and  
thence in a north-easterly direction, following the water line of the said river, with  
the stream, to the place of beginning; containing by admeasurement about one acre  
of land, and being that portion below the cliff of the Niagara River, in front of lot  
number one hundred and forty-four of the township of Stamford and within the  
incorporate limits of the town of Niagara Falls.

To have and to hold the said demised premises for and during the term of  
twenty years to be completed from the thirteenth day of June in the year of Our  
Lord one thousand eight hundred and eighty-four, and from thence next ensuing  
40 and fully to be completed and ended.



Yielding and paying therefor, yearly and every year during the said term hereby granted unto the said lessors, their successors and assigns, the sum of one hundred and fifty dollars, to be payable on the following days and times, that is to say: in equal portions on the thirteenth days of June and December in each and every year during the said term, without any deduction, defalcation or abatement whatsoever, the first of such payments to become due and be made on the thirteenth day of December, in the year of Our Lord one thousand eight hundred and eighty-four, and the last of such payments to become due and payable, in advance, on the thirteenth day of June, one thousand nine hundred and four.

10 And the said lessees, jointly and severally, covenant with the said lessors, to pay rent, and to pay taxes, and to repair, and to keep up fences, and not to cut down timber; and that the said lessors may enter in and view the state of repair, and that the said lessees will repair according to notice, and will not assign or sub-let without the written consent of the said lessors first had and obtained in writing, and will not carry on upon said premises any business or occupation which may be offensive or annoying to the said lessors or their assigns, and that they will leave the premises in good repair, and that they will, at all times, during the said term hereby granted, maintain and keep the present existing public road leading over the said premises hereby demised, to the ferry landing, in a good and proper state of repair, 20 and so that the public may travel over the same as heretofore, and that they will at all times keep, and allow the said road, within one hundred feet from the water's edge, to remain open for the free use of the public.

And also that if the term hereby granted, be at any time seized or taken in execution or in attachment by any creditor of the lessees, or either of them or their assigns; or if the said lessees, or either of them or their assigns, shall make any assignment for the benefit of creditors, or becoming bankrupt or insolvent, shall take the benefit of any Act that may be in force for bankrupt or insolvent debtors, the then current half year's rent, shall immediately become due and payable, and the said term shall immediately become forfeited and void. Proviso for re-entry by the 30 said lessors on non-payment of rent or non-performance of covenants.

In witness whereof the said parties have hereunto set their hands and seals :

Signed sealed and delivered  
in presence of  
HIRAM BENDER.

JOHN BENDER, <i>Mayor.</i> J. ROBINSON, <i>Town Clerk.</i> R. F. CARTER, FRANK LE BLOND.	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">TOWN SEAL.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">[SEAL.]</div> <div style="border: 1px solid black; padding: 5px;">[SEAL.]</div>
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**No. 145.**

LETTER, COLONEL C. S. GZOWSKI, CHAIRMAN PARK COMMISSIONERS,  
TO MINISTER OF INTERIOR, ASKING FOR TRANSFER OF LANDS  
ALONG NIAGARA RIVER.

OFFICE OF THE QUEEN VICTORIA NIAGARA FALLS PARK COMMISSION,  
TORONTO, 27th April, 1887.

SIR,—I beg leave to enclose certified copy of the Act respecting the Niagara Falls Park ; and, representing the Commissioners for the Queen Victoria Niagara Falls Park, I have the honour to request you to transfer to the Commissioners, for the use 10 of the Park, that strip of land along the bank of the Niagara River, reserved for the purposes of defence, which extends from lot 145 to lot 92 in the township of Stamford.

I have the honour to remain,

Your obedient servant,

C. S. GZOWSKI,

To the Honourable *Chairman, Q. V. N. Falls Park Commissioners.*  
THOMAS WHITE, M.P.,  
Minister of the Interior, Ottawa.

**No. 146.**

LETTER, DEPUTY MINISTER OF INTERIOR BURGESS TO COLONEL GZOWSKI, IN REPLY.

DEPARTMENT OF THE INTERIOR,  
ORDNANCE AND ADMIRALTY LANDS BRANCH,  
OTTAWA, 18th May, 1887.

(In your reply, please refer to No. 1965, '87.)

SIR,—I have the honour, by direction of the Minister of the Interior, to acknowledge the receipt of your letter of the 27th ultimo, enclosing a certified copy of the Act respecting the Niagara Falls Park, and requesting, on behalf of the Commissioners of the said Park, that the strip of land along the bank of the Niagara River reserved 30 for the purposes of defence, and known as the Chain Reserve, extending from lot 145 to lot 92, in the township of Stamford, may be transferred to them for the use of the Park.

In reply, I have to inform you that, on the 28th August last, a lease for twenty-one years was granted to Thomas Swinyard, Henry F. Pierce and George H. Howard, of so much of the Chain Reserve as will enable the lessees to build a carriage way



and footpath along "the shore of the Niagara River, below the top of the bank, in a " southerly direction from the dividing line between lots 92 and 93, to the dividing " line between lots 144 and 145, in the township of Stamford, together with the " privilege of constructing two tramways or elevators from the water's edge, with " the use of sufficient ground on the Chain Reserve at the top of the bank to work " said tramways." The lessees are required, by the terms of their lease, to file in this Department, on or before the 1st June (prox.), plans showing, accurately, the location of the said carriage road and footpath, and of the said tramways or elevators, and giving the quantity of land taken by them, the said plans to be subject to the 10 approval of the Minister of the Interior. A letter was, on the 2nd instant, addressed to Mr. Howard, calling his attention to the proviso in the lease, to which I have referred. On receipt of the plans required, the Minister of the Interior will give your application his earliest consideration.

I am, Sir,

Your obedient servant,

A. M. BURGESS,

Colonel C. S. Gzowski, A.D.C.,

*Deputy of the Minister of the Interior.*

Chairman of the Queen Victoria

Niagara Falls Park Commission,

20

Toronto.

## No. 147.

LETTER, COLONEL GZOWSKI TO DEPUTY MINISTER OF INTERIOR  
BURGESS ASKING FOR REPLY.

TORONTO, 18th May, 1887.

DEAR MR. BURGESS,—I wrote on 27th April to the Honourable Mr. White applying for a transfer to the Queen Victoria Niagara Falls Park Commissioners, of the strip of land on the bank of the Niagara River, now held by the Dominion Government for military purposes, from lots 145 to 92, in the township of Stamford, but am still without reply.

30 The kind attention you gave the matter when I called to your knowledge the condition of the property, render it unnecessary for me to occupy your valuable time with further details.

I only beg your early attention to the matter to enable the Commissioners to complete the plan for laying out the park.

I remain, very truly yours,

C. S. GZOWSKI.

To A. M. BURGESS, Esq.,

Department of Interior, Ottawa.



**NO. 148.**

COMMUNICATION SIR HENRY HOLLAND TO LORD LANSDOWNE, GOVERNOR GENERAL, ENCLOSING COPY OF LETTER FROM WAR OFFICE RESPECTING TRANSFER OF CHAIN RESERVE.

[Canada. No. 181.]

DOWNING STREET, 31st May, 1887.

MY LORD,—I have the honour to transmit to you for communication to your Ministers, with reference to your despatch No. 115 of the 18th of April, a copy of a letter from the War Office respecting the transfer of the "Chain Reserve" along the 10 banks of the River Niagara.

I have, etc.,

Governor General,

H. T. HOLLAND.

The Most Honourable

The Marquis of Lansdowne, G.C.M.G., &c., &c., &c.

**No. 149.**

COMMUNICATION FROM WAR OFFICE TO COLONIAL OFFICE ENCLOSED WITH NUMBER 148.

WAR OFFICE, PALL MALL, 27th May, 1887.

[Canada. 301.]

20 SIR,—With reference to your letter dated 29th April, 1887, I am directed by the Secretary of State for War to acquaint you, for the information of the Secretary of State for the Colonies, that the correspondence in this office shows that instructions were sent to the Commanding Royal Engineer in Canada, to hand over the lands mentioned in the second schedule of the Act authorizing the transfer in 1856, of property belonging to this department, to the persons appointed to receive them on behalf of the Provincial Government, together with all deeds, leases, and other documents.

The "Chain Reserve" alluded to in your letter under reply, is not distinctly specified in that schedule, and no information respecting its transfer can be traced.

30 The plans in this office, however, agree with the description of it in the report of the committee, a copy of which accompanied your communication before referred to, that it commenced at a distance of one chain from the top of the bank of the River Niagara, and extended to the water's edge.

I have, &c.,

RALPH THOMPSON.

The Under Secretary of State,  
Colonial Office.



**No. 150.**

*11 June 1887*

AWARD BY OFFICIAL ARBITRATORS IN THE MATTER OF FULLER AND OTHERS, FOR THE VALUE OF THE PROPRIETARY INTEREST OF PART OF THE MACADAMIZED ROAD KNOWN AS "THE ST. CATHARINES, THOROLD AND NIAGARA FALLS ROAD."

TO ALL TO WHOM THESE PRESENTS SHALL COME.

WE, Theophilus H. A. Begue of the Town of Dundas, Esquire, Henry Taylor of the Township of Burford, in the County of Brant, Esquire, and Edmund J. Senkler of the City of St. Catharines, Esquire, the Official Arbitrators for Ontario, SEND

10 GREETING :

WHEREAS under and by virtue of a certain Act of the Legislature of Ontario, passed at a Session thereof, held in the 50th year of the reign of Our Sovereign Lady Victoria, chapter 13, intituled, "An Act respecting the Niagara Falls Park," and of another Act of the said Legislature passed at a Session thereof held in the 48th year of the reign aforesaid, chapter 21, intituled, "An Act for the preservation of the Natural Scenery about Niagara Falls," and certain provisions of the Revised Act respecting the Public Works of Ontario as incorporated therewith, the Commissioners for the Queen Victoria Niagara Falls Park, under and in pursuance of the said Acts, on or about the 27th day of April, 1887, did cause an Instrument in writing under 20 their corporate seal, to be served on Messrs. Fuller, Nesbitt and Bicknell in words and figures following.

"THE QUEEN VICTORIA NIAGARA FALLS PARK.

"In pursuance of the Act of the Legislature of Ontario passed at a Session thereof "held in the 50th year of Our Sovereign Lady Victoria, chapter 13, intituled, 'An "Act respecting the Niagara Falls Park.' To Henry H. Fuller, Mrs. Cynthia Fuller, "Vallancy E. Fuller, John B. Smyth and Eliza Smyth, the persons who exercise, "own or control the taking of tolls upon the gravelled or macadamized road known "as the St. Catharines, Thorold and Niagara Falls Road, and to Messrs. Fuller, "Nesbitt and Bicknell, their solicitors. The Commissioners for the Queen Victoria 30 "Niagara Falls Park, under and in pursuance of the said Act, and 48 Victoria, chapter "21, and the provisions of the Revised Statutes of Ontario, chapter 30, incorporated "therewith, do hereby give you notice that they require to purchase or take, subject "to the provisions of the said Acts, for the objects and uses therein mentioned, that "portion of the gravelled or macadamized road known as the St Catharines, Thorold "and Niagara Falls Road between the Table Rock and the north boundary line of "the Park, marked and delineated on the map of the Niagara Falls Park, approved "by the Lieutenant-Governor in Council, filed in the office of the registrar for the "county of Welland, and in the office of the Commissioner of Crown Lands; and the "right of taking and collecting tolls thereon, as well as the title, interest and posses-



"sory right, which you the persons above named, have to the portion of the said road, and the land whereon the same is laid out, together with the toll-house and appurtenances between the said points, which road, rights and interests the said Commissioners are authorized to purchase, or take, subject to the provisions of the said Acts.

" And the said Commissioners further give you notice that, they are willing to treat with you for the purchase of the said road between the said points, and your rights and interests therein, and are willing to fix as the price to be paid for the said road, rights and interest therein, the sum of two thousand nine hundred dollars.

10 " And the said Commissioners hereby demand from you, the particulars of your estate and interest in the road and rights so required, and of the claims made by you in respect thereof, and also demand your acceptance or refusal of the said offer.

" And the said Commissioners, in the event of your refusal to accept the said offer, and that the said Commissioners are unable to agree with you upon the price to be paid for the portion of the said road, rights and interest, hereby, in pursuance of the said Acts, give you notice, that it is their intention, after the expiration of six days from the service of this notice, and in pursuance of the jurisdiction in the said Acts contained, to issue their warrant to the Official Arbitrators for Ontario, to determine the price to be paid for the purchase, free from incumbrances of the said 20 portion of the said road, rights of toll and interest thereon as aforesaid, in the manner provided for by the said Acts, and by the Revised Statutes respecting the Public Works of Ontario.

" And in case of such arbitration, as aforesaid, the Commissioners will require the arbitrators to determine the value of the whole road between the Table Rock and a point about five miles therefrom, in respect of which tolls are now collected, in the manner and for the purposes and subject to the provisions of the 5th paragraph of section 4 of the Act of 50th Victoria, chapter 13, first above mentioned. In witness whereof the Commissioners for the Queen Victoria Niagara Falls Park have hereunto affixed their corporate seal the twenty-seventh day of April, 1887. (Sgd.)

30 " C. S. Gzowski, Chairman. (L.S.)"

AND WHEREAS the said Henry H. Fuller, Cynthia Fuller, Vallancy E. Fuller, John B. Smyth, and Eliza Smyth his wife, did not accept the price fixed by the Commissioners, as aforesaid, to be paid for the said land.

AND WHEREAS the Commissioners, by their warrant under their Corporate Seal, bearing date and issued on the Eleventh day of May, 1887, in pursuance of the power conferred upon them in that behalf by the said Acts, did require the Official Arbitrators for Ontario to proceed and determine the price to be paid, subject to the provisions of the said Acts, as in said instrument and notice described, for the purchase of that portion of the gravelled road, rights and interests, set forth and described



in the said notice free from incumbrances ; and further, that the said official arbitrators hear evidence and take into consideration the value of the whole road between the Table Rock and a point about five miles therefrom, in respect of which tolls are now collected, and determine the value thereof, for the purposes and subject to the provisions of the 5th paragraph of Section 4 of the Act 50 Victoria, chapter 13, first above mentioned, and known as "The Queen Victoria Niagara Falls Park Act, 1887;" and that the Official Arbitrators for Ontario do determine, settle and state in their award, by and to whom, any costs incurred in connection with such arbitration and valuation, shall be paid, in accordance with the provisions of the said Act mentioned, 10 and do ascertain and settle all such other matters and things, as by virtue of the provisions of the said Act, or otherwise, the said Official Arbitrators are lawfully required to do.

NOW KNOW YE THAT WE, Theophilus H. A. Begue, Henry Taylor and Edmund J. Senkler, the said Official Arbitrators for Ontario, having taken upon ourselves the burthen of making the said Award ; and having heard the said Henry H. Fuller, Cynthia Fuller, Vallancy E. Fuller, John B. Smyth, and Eliza Smyth; his wife and the other parties who appeared before us, and having examined witnesses produced by them before us upon oath, and the evidence laid by the said parties before us for determining the matters in issue ; and having also viewed that portion 20 of the gravelled or macadamized road known as the St. Catharines, Thorold and Niagara Falls Road, between the Table Rock and the north boundary line of the Park, as in the hereinbefore notice described, and the right of taking and collecting tolls thereon, as well as the title, interest and possessory right, which the said Henry H. Fuller, Cynthia Fuller, Vallancy E. Fuller, John B. Smyth and Eliza Smyth, his wife, have to that portion of the said road and the land whereon the same is laid out, together with the toll house and appurtenances between the said points ; and also having viewed the whole road between Table Rock and a point about five miles therefrom, in respect of which tolls are now collected, and having also, in making this our award, regarded not only the value of the said portion within the Park, but 30 having taken into account the depreciation in the value of the remainder of the road, do make this our award, in writing, concerning the premises, in manner and form following, that is to say :—

We award, decide, order and determine, that in accordance with the provisions of the Act firstly above cited, the sum of four thousand dollars shall be paid for the absolute purchase, free from incumbrances, of that portion of the gravelled or macadamized road within the Park, and the right of taking and collecting tolls thereon, and other rights and interests and appurtenances, as above set forth.

AND we further award, decide, order and determine the value of the whole road between the Table Rock and a point about five miles therefrom, in respect of 40 which tolls are now collected, to be the sum of seven thousand and five hundred dollars for the purposes and subject to the provisions of the 5th paragraph of Section 4, of the Act 50 Victoria, chapter 13, first above mentioned.



But nothing in this our award, shall effect any right of title of the Dominion of Canada, to any property known as the Military Reservation or Ordnance property.

AND WE further decide, find and award, that the costs which the said Henry H. Fuller, Cynthia Fuller, Vallancy E. Fuller, John B. Smyth and Eliza Smyth, his wife, have incurred in connection with this arbitration, shall be paid by the Commissioners aforesaid, to the said Henry H. Fuller, Cynthia Fuller, Vallancy E. Fuller, John B. Smyth and Eliza Smyth; the amount thereof to be ascertained upon taxation of such costs, as between solicitor and client, by the Proper Officer of the High Court of Justice.

10 IN WITNESS Whereof we, the undersigned Official Arbitrators for Ontario, have set our hands the eleventh day of June, 1887.

Signed and published in presence of  
T. B. GEDDES.

T. H. A. BEGUE.  
HENRY TAYLOR.  
E. J. SENKLER.

## No. 151.

### SURRENDER FROM DEFENDANTS AND MRS. JANE E. PIERCE TO HER MAJESTY, OF ALL THEIR INTERESTS AS LESSEES OF LANDS IN QUESTION.

KNOW ALL MEN BY THESE PRESENTS that we, Thomas Swinyard and George H. 20 Howard, in the within written Indenture named and described, and Jane E. Pierce, of Niagara Falls, in the State of New York, one of the United States of America, widow, and M. S. Langs, of Suspension Bridge, in the said State of New York, physician, sole executors of the last will and testament of Henry F. Pierce, deceased, also named and described in the said Indenture, in consideration of the sum of one dollar of lawful money of Canada, to us in hand well and truly paid at or immediately before the sealing and delivery hereof, the receipt whereof we do hereby acknowledge, do, by these presents, assign, surrender and yield up unto Her Majesty the Queen, and her successors, all and singular the lands, hereditaments and premises comprised and described in the within Indenture of lease, and thereby demised, 30 together with all the rights, members and appurtenances to the same belonging, or in any wise appertaining; and all the estate, right, title, interest, benefit of renewal claim and demand whatsoever, either at law or equity, of us, into, out of or upon the said premises; to the intent that by virtue of these presents, the residue now unexpired of the term of twenty-one years, of and in the said hereditaments and premises, erected by the within Indenture of Lease, and all other our estate, term and interest therein, by virtue of the said Indenture, may merge in the freehold.



reversion and inheritance of the said premises and be thereby extinguished; and we for ourselves, our heirs, executors and administrators do hereby covenant with Her Majesty the Queen and her successors, that we now have in good right, full power, and lawful and absolute authority, to assign, surrender and yield up the said hereditaments and premises, in manner aforesaid, and according to the true intent and meaning of these presents.

In witness whereof, we have hereunto set our hands and seals, this ninth day of June, one thousand eight hundred and eighty-seven.

By his Attorney,  
G. H. HOWARD.

10 Signed, sealed and delivered  
in presence of

ALEX. FRASER.  
as to the signature of Thomas Swinyard  
by his Attorney, G. H. Howard, and  
G. H. Howard, and in the presence of  
WM. SOMWAYS  
as to the signatures of Jane E. Pierce  
and M. S. Langs, M.D.

THOMAS SWINYARD. [SEAL.]  
G. H. HOWARD. [SEAL.]  
JANE E. PIERCE. [SEAL.]  
M. S. LANGS. [SEAL.]

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## No. 152.

LETTER FROM DEFENDANTS TO MINISTER OF INTERIOR (CANADA),  
APPLYING FOR ISSUE OF LICENSE TO THEM OF LANDS IN QUESTION.

NIAGARA FALLS, ONT., 13th June, 1887.

To the Honourable

The Minister of the Interior, Ottawa.

SIR,—We have the honour to apply to the Ordnance Department, for the right to build and operate a carriage way and foot-path, along the shore of the Niagara River, below the river bank, from the dividing line between lots ninety-two and ninety-three, to the dividing line one hundred and forty-five in the township of Stamford in the county of Welland; and also for the privilege of constructing upon the same road, a tramway upon which cars, carrying passengers, may be run, propelled or drawn by electric or steam motor, or by cable or horse power; together with the privilege of building two tramways or elevators, and operating same, from the water's edge to the top of the river bank, with the use of sufficient ground on the top of the bank to work said tramways or elevators. We humbly pray the department to grant us a lease, for twenty-one years, of the above described lands; for which we are willing to pay a fair rental to be fixed by the department—a nominal rental for the first two years, and a fixed amount for the remainder of the term.



We have the honour to attach a plan showing a survey of the land we wish to occupy.

It is considered that such an enterprise would be a great benefit to the town of Niagara Falls, as it would give excursionists and others, a much needed opportunity to see the unequalled beauties of the scenery of the Niagara River below the bank, which is now altogether inaccessible; and would be an attraction that would enable us to regain the excursion traffic which used to flow here, but which is now lost to the Canadian side of the river since the State of New York have added so much to the attractions on their side of the Falls.

10

We have, &c.,

THOMAS SWINYARD.

per his Attorney G. H. HOWARD.

## No. 153.

### ORDER IN COUNCIL ACCEPTING SURRENDER.

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 20th June, 1887.

On a memorandum dated 17th June, 1887, from the Minister of the Interior, submitting the annexed surrender of the lease of certain Ordnance Lands along the 20 shore of the Niagara River, which was issued to Thomas Swinyard, Henry F. Pierce and George H. Howard, under the authority of the Order in Council of the 5th June, 1886; and recommending that this surrender be accepted and the parties thereto released from all obligations thereunder.

The committee submit the same for your Excellency's approval.

JOHN J. McGEE,

*Clerk of Privy Council.*



**No. 154.****ORDER IN COUNCIL UPON APPLICATION OF DEFENDANTS FOR LEASE  
OF LANDS IN QUESTION.**

PRIVY COUNCIL, CANADA.

*Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 20th June, 1887.*

On a Memo. dated 17th June, 1887, from the Minister of the Interior, submitting the annexed application by Thomas Swinyard, of Morristown, New Jersey, and George H. Howard, of Niagara Falls, Ont., for a lease of a portion of the chain 10 reserve along the shore of the Niagara River, for the purposes therein set forth, and recommending that a lease be granted for a period of twenty years, to date from the 9th day of June, instant, of that portion of what is known as the chain reserve at the disposal of the Government, from the dividing line between lots ninety-two and ninety-three, to the dividing line one hundred and forty-five, in the township of Stamford in the county of Welland, Ontario, with the right to build and operate a carriage way and footpath along the shore of the Niagara River, below the river bank; and also the privilege of constructing upon that road, a tramway upon which cars carrying passengers may be run, propelled or drawn by electric or steam motor, or by cable or horse-power, together with the privilege of building two tramways or 20 elevators, and of operating the same from the water's edge to the top of the river bank, with the use of sufficient ground on the top of the bank to work the said tramways or elevators, upon the following terms and conditions:

1. The lease to be at a nominal rental of \$1 per annum, for a sufficient period to allow the road to be built, say one year, after which time, the rent payable shall be \$50 per annum.
2. The road to be built and in operation, within one year from the date of the lease.
3. The lease to be subject to any sale, lease, right or privilege already existing.
4. The road to be built and protected in a manner satisfactory to the Minister 30 of the Interior.
5. The rates of fare and fees chargeable to the public by the company, shall be subject to the approval of the Governor in Council.

The committee advise that a lease do issue as recommended.

JOHN J. McGEE,

*Clerk of Privy Council.*

See the McDougall  
License No 1 May 1862  
Pay 40/-  
Received at post office 11/89



**No. 155.**

LETTER FROM COL. GZOWSKI, CHAIRMAN PARK COMMISSIONERS, TO DEPUTY MINISTER OF INTERIOR BURGESS, ASKING WHAT ACTION TAKEN ON HIS APPLICATION.

TORONTO, 23rd June, 1887.

DEAR MR. BURGESS,—I did not write to you since the receipt of your letter of 18th May, knowing the constant calls made on the time of the Minister and yourself during the session.

In your letter of 18th, you referred to a lease of the portion of the Chain reserve 10 at Niagara, to Messrs. Swinyard and others, and that plans had to be submitted on the 2nd June, inst., for the approval of the Minister of the Interior, after which the application of the Park Commissioners was to receive the Minister's consideration.

Will you kindly advise me what has been done in the matter, for the guidance of the Park Commissioners?

Believe me to remain, very truly yours,

C. S. GZOWSKI,

*Chairman, &c., &c.*

A. M. BURGESS, ESQ.,

Deputy Minister of Interior,

20

Ottawa.

**No. 156.**

TELEGRAMS FROM COL. GZOWSKI TO SIR JOHN MACDONALD ON SAME SUBJECT.

*Telegram to Right Honourable Sir John A. Macdonald.*

TORONTO, 7th July, 1887.

Right Hon'ble SIR JOHN A. MACDONALD,  
Ottawa.

Kindly give directions to transfer to Park Commissioners, the strip of land on the Niagara River belonging to the Dominion, application for which has been made.

80

C. S. GZOWSKI.

TORONTO, 18th July, 1887.

To the same.

I telegraphed you about the strip of land at the Falls on 7th inst., please give directions for transfer to Commissioners.

C. S. GZOWSKI.



**No. 157.**

ORDER IN COUNCIL (ONTARIO) AUTHORIZING THE GRANT TO PARK  
COMMISSIONERS OF LANDS IN QUESTION, WITH OTHER LANDS.

*Copy of an Order in Council approved by His Honour the Lieutenant-Governor the 15th day of July, A.D. 1887.*

The Committee of Council have the honour to report, for the information of Your Honour, that by the "Queen Victoria Niagara Falls Park Act, 1887," it was provided that the Lieutenant-Governor in Council may vest in the Commissioners, to be held for the purposes of the Park, any part or portions of the Crown Lands, the 10 property of Ontario, lying along the bank of the Niagara River, and not included in the original survey of lands laid out in the townships of Stamford and Niagara; and that the Commissioners have applied for a grant to be made to them accordingly of the following Crown Lands, the property of Ontario, namely:—

The land beginning at the north boundary of the Park, opposite the Clifton House, and lying in front of lots numbers 129, 128, 111, 110 and 93, in the township of Stamford, subject to the Military Reservation, of one chain in width on the edge of the cliff.

Also, the land in the said township lying in front of lots 92, 75, broken front of 74 and broken front of 59, and the land in front of numbers 41, 40, 21, 20 and 1, and 20 the land lying between number 1 and the township of Niagara, known as the Gore or Cross Concession in Stamford.

Also the land in front of lots 1, 2 and part of 3, fronting on the Niagara River, in the township of Niagara, as far down as Queenston.

The Committee recommend that Your Honour do vest the said lands in the said Commissioners as prayed, to be held for the purposes of the said Park, and subject to the condition that compensation shall be made to any persons legally or equitably entitled thereto, in respect of any of the lands so vested.

Certified,                    J. LONSDALE CAPREOL,

*Asst. Clerk Executive Council.*



**No. 158.**

LETTER FROM ACTING DEPUTY MINISTER OF INTERIOR HALL, TO  
COL. GZOWSKI, CHAIRMAN.

DEPARTMENT OF THE INTERIOR,

ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 21st July, 1887.

(In your reply, please refer to No. 1965.)

DEAR SIR,—With further reference to the subject of the lease to Mr. Thomas Swinyard and others, of a portion of the Chain Reserve along the bank of the Niagara 10 River,

I beg to inform you that the plans mentioned in Mr. Burgess's letter to you of the 18th May last, have been duly filed in the Department.

Yours obediently,

JOHN R. HALL,

Colonel C. S. Gzowski, A.D.C.,

*Acting Deputy Minister of Interior.*

Chairman of the Queen Victoria

Niagara Falls Park Commissioners.

Toronto, Ont.

**No. 159.**

20 LEASE BY CANADA TO THE DEFENDANTS OF THE LAND IN QUESTION,  
WITH THREE PLANS, BEING NUMBERS 22, 23 AND 24 IN APPENDIX OF MAPS.

JOHN J. McGEE,  
Deputy Governor.

[Seal.]

CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith, &c., &c., &c.

GEO. W. BURBIDGE,  
30 Deputy of the Minister of Justice,  
Canada.

To ALL To WHOM THESE PRESENTS SHALL COME,

GREETING :

Whereas Thomas Swinyard, of Morristown, in the State of New Jersey, one of the United States of America, gentleman, and George H. Howard, of Niagara Falls, in the Province of Ontario, in our Dominion of Canada, banker, hereinafter called the



lessees, have applied to us for a lease or license of occupation of certain lands, including those hereinafter described, and of the privileges in connection therewith, hereinafter mentioned and described, for the purpose of constructing and operating a carriage way and foot path along the shore of the Niagara River ;

And whereas an Order of our Governor in Council was passed on the twentieth day of June, in the year of our Lord one thousand eight hundred and eighty-seven, authorizing the granting of the said application upon certain terms and conditions ;

And whereas it is expedient that a lease should issue to the lessees, in pursuance of the said Order in Council, and upon and subject to the terms and conditions there-  
10 by prescribed, for the lands hereinafter mentioned and described ;

Now, therefore, know ye, that for and in consideration of the rent hereinafter reserved, and by and with the advice of our Privy Council for Canada, we have demised and leased, and we do, by these presents, demise and lease unto the said lessees, their executors, administrators and assigns, all and singular the lands following, that is to say : No much of the Chain reserve as will enable the lessees to build a carriage way and foot path along the shore of the Niagara River, below the top of the bank, in a southerly direction from the dividing line between lots ninety-two and ninety-three, in the township of Stamford, to the parcel of land demised and leased to the Corporation of the Town of Niagara Falls, for the purpose of a ferry landing,  
20 in and by our certain Letters Patent, bearing date the twenty-seventh day of March, in the year of our Lord one thousand eight hundred and eighty-five.

Together with the privilege of constructing upon such carriage way, a tramway upon which cars, carrying passengers, may be run, propelled or drawn by electric or steam motor, or by cable or horse power; and of building and operating two tramways or elevators, from the water's edge to the top of the river bank, with the use of sufficient ground on the Chain reserve at the top of the bank, to work said two tramways.

To have and to hold the said lands and premises hereby demised and leased, or intended so to be, with the appurtenances thereto belonging, unto the said lessees, their executors, administrators and assigns, for and during and unto the full end and  
30 term of twenty years, to commence, and be computed from, the ninth day of June, in the year of our Lord one thousand eight hundred and eighty-seven.

Yielding and paying therefor, for the first year of the said term, the rent or sum of one dollar, and yearly and every year thereafter, during the said term, the clear yearly rent or sum of fifty dollars; such payments to be made, in advance, on the ninth day of June in each and every year during the said term; the first of such payments of fifty dollars to be made on the ninth day of June, in the year of our Lord one thousand eight hundred and eighty-eight; and all of such payments to be made without any deduction or abatement for, or in respect of, any taxes, rates, duties or assessments which are, or may be hereafter, imposed upon the said lands and premises.



Provided always and these presents are upon and subject to the several provisos, conditions, stipulations and restrictions hereinafter expressed and contained, that is to say :—

1. The location of the said carriage road and foot path, and of the said tramways, shall be subject to the approval of the Minister of the Interior of Canada, and the said lessees shall, as soon as possible after the date hereof, file in the Department of the Interior, plans and descriptions, shewing accurately such location and the quantity of land taken by them; and upon approval of such plans and descriptions by the said Minister of the Interior, the lands shown therein as taken by the said lessees, shall 10 be taken to be the lands demised and leased by these presents, and such plans and descriptions shall be held and taken to be incorporated with and to form part of these presents.

2. The said carriage way and foot path, shall be built and in operation within one year from the date of these presents.

3. These presents shall be subject to any sale, lease, right or privilege already existing.

4. The said carriage way and foot path and the said tramways (if the same are constructed), shall be built and protected in a manner satisfactory to the said Minister of the Interior.

20 5. The rates of fare and fees chargeable to the public by the lessees, shall be subject to the approval of the Governor in Council, and no such fares shall be collected by the lessees until the same have been so approved.

6. In default of payment of the rent hereby reserved, or any part thereof, for thirty days after the same is payable, although no formal demand shall have been made therefor, or in case the said lessees shall at any time during the said term refuse, neglect or fail to keep, observe, perform, or abide by any of the provisos, conditions, stipulations or restrictions herein contained, then these presents shall be null and void to all intents and purposes whatsoever, and the lands and premises hereby demised and leased, and every part and parcel thereof, shall revert to and become 80 vested in us, or our successors, in like manner as if these presents had never been issued, anything herein contained to the contrary notwithstanding.

7. Wherever in the above provisos, conditions, stipulations and conditions the word lessees is used, the same shall be held and taken to extend to, and include, the executors, administrators and assigns of the lessees and each of them.

Given under the Great Seal of Canada; witness, John Joseph McGee, Esquire, Deputy of our right, trusty and entirely beloved cousin, the Most Honourable Sir Henry Charles Keith Petty-Maurice, Marquis of Lansdowne, in the County of Somerset, Earl of Wycombe of Chipping Wycombe, in the County of Bucks, Viscount Calne and Calnstone, in the County of Wilts, and Lord Wycombe, Baron of Chipping

at this time the outstanding  
W-Douglas Lecture of  
1862 was good

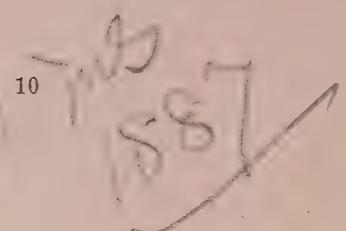
Wycombe, in the County of Bucks, in the Peerage of Great Britain; Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron, in the Peerage of Ireland; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George; Governor General of Canada and Vice Admiral of the same.

At Ottawa, this twenty-second day of July, in the year of our Lord, one thousand eight hundred and eighty-seven, and in the fifty-first year of our reign.

By Command,

G. POWELL,  
*Under Secretary of State.*

10



## No. 160.

LETTER FROM COL. GZOWSKI TO DEPUTY MINISTER OF INTERIOR  
BURGESS.

TORONTO, 27th July, 1887.

MY DEAR SIR,—I have a letter from the acting Deputy Minister of Interior, Mr. J. R. Hall, No. 1965, dated 20th inst., in which he informs me that the plans mentioned in your letter to me dated 18th of May last, have been duly filed in the Department.

In your letter referred to, you were good enough to say that on receipt of the 20 plans required, from Messrs. Swinyard & Howard, the Minister of the Interior, will give the application of the Commissioners of the Niagara Falls Park the earliest consideration.

Will you kindly inform me what action has been taken with reference to the Commissioners' application, and could you oblige me with a copy of the plans filed by Mr. Thomas Swinyard and others, that I may see what is proposed to be done in the locality?

I remain, &c., &c..

C. S. GZOWSKI,

*Chairman.*

To A. M. BURGESS, Esq.,  
Deputy Minister of Interior,  
Ottawa.



**No. 161.**

LETTER FROM MR. WILLIAM MILLS, OF ORDNANCE BRANCH, TO COL.  
GZOWSKI.

DEPARTMENT OF THE INTERIOR,  
ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 8th August, 1887.

DEAR SIR.—Mr. Burgess, Deputy of the Minister of the Interior, has requested me to acknowledge the receipt of your letter of the 27th ult., and in reply to say that he has but just returned from the North-west and British Columbia, and that 10 the matter of your communication will receive his early attention.

I am, Sir, your obedient servant,

**WILLIAM MILLS,**

*In Charge of O. & A. Lands.*

Colonel C. S. Gzowski, A. D. C.,

Chairman of the Queen Victoria Niagara Falls Park Commissioners,

Toronto, Ont.

**No. 162.**

LETTER FROM DEPUTY MINISTER OF INTERIOR BURGESS TO COL.  
GZOWSKI, CHAIRMAN.

20

DEPARTMENT OF THE INTERIOR,

ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 26th August, 1887.

DEAR COLONEL GZOWSKI.—I am in receipt of your letter of the 19th inst., asking what action has been taken with reference to the Niagara Falls Park Commissioners' application, and also for a copy of the plan submitted by Messrs. Swinyard and Company, which you were informed by letter from Mr. Hall, dated July 21st last, had been duly filed. In reply I beg to say that Mr. Hall's communication was, at that time, in accordance with the facts, but that it has since been found necessary, owing to the death of one of the partners in the tramway company, to 30 issue a new lease, covering a less quantity of land than the other, and the plan showing accurately the location of the proposed carriage road, under the lease they now hold, has not yet been received, although I expect it soon.

I might also say that the corporation of the town of Niagara Falls are desirous of having the road at that town, leading from a point opposite the Clifton House to the ferry, kept open, and free of access at all times to the public, and have protested



against its acquisition by the Park Commissioners. Under these circumstances, I think it would be well to allow the matter to stand until the return of the Minister, which I anticipate will be early in September.

In the meantime Messrs. Swinyard & Howard will be urged to file a plan and description, of the lands they now hold, with as little delay as possible.

Yours very truly,

Col. C. S. Gzowski, A. D. C..

A. M. BURGESS, *D. M. I.*

Chairman Q. V. N. F. P. Comm's,

Toronto.

10

## No. 163.

### FURTHER LETTER FROM COL. GZOWSKI TO DEPUTY MINISTER OF INTERIOR BURGESS.

TORONTO, 1st Sept., 1887.

DEAR MR. BURGESS,—I have to thank you for your letter of 26th ult. I am so imperfectly informed of the application made to the Dominion Govt., that I was not aware of the formation of a Tramway Co., and even now do not know of its projected route, nor do I realize where the proposed carriage way is to be located,—matters which may materially interfere with the control by the Commissioners of the Park as laid out, or with the lands transferred to them by Order in Council of the Ontario Government.

I fully recognize the value of your suggestion, that the discussion of these several applications should remain at rest until the Minister returns, and I trust that the applicants will not venture to take any step in anticipation of what may be the Minister's eventual decision.

With reference to the protest by the Corporation of the Town of Niagara Falls, I am glad to be able to inform you that, the Commissioners have never pretended to ignore the necessity of keeping open proper access from a point opposite the Clifton House to the ferry.

Until I received your letter I had not heard of any action by the Town of Niagara Falls, and I will be obliged to you for a copy of their communication, that I may know whether more is suggested than that which the Commissioners admit. I will be glad to receive a copy of the plan and description of lands which Messrs. Swinyard and Howard are so required to file, to enable me to understand how far they may affect the objects the Commissioners have in view.

I remain,

Very truly yours,

To A. M. BURGESS, Esq.,

C. S. GZOWSKI, *Chairman.*

Deputy Minister of Interior,

Ottawa.



**No. 164.**

DEPUTY MINISTER BURGESS TO COL. GZOWSKI, ENCLOSING COPY OF PETITION FROM TOWN OF NIAGARA FALLS, DATED 18TH AUG., 1887.

DEPARTMENT OF THE INTERIOR,

ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 8th September, 1887.

DEAR COLONEL GZOWSKI,—In compliance with the request contained in your letter of the 1st inst, I enclose a copy of the petition received by this Department 10 from the Municipal Council of the Town of Niagara Falls.

Complaint has been made by other parties that the Park Commissioners are closing up the road on the Chain reserve below the Falls; in answer to which they have been advised that you had, in your quality of Chairman of the Park Commission, informed me that the Commissioners have never intended to ignore the necessity of keeping open proper access from a point opposite the Clifton House to the ferry.

The plan and description of lands, which Messrs. Swinyard and Howard are required to furnish, have not yet been received. As soon as they come to hand, I will have copies made and forwarded to you.

20

Yours very truly,

A. M. BURGESS,

Col. C. S. Gzowski, A.D.C.,

*Deputy of the Minister of the Interior.*

Chairman of the Queen Victoria

Niagara Falls Park Commissioners,

Toronto, Ontario.

**No. 165.**

PETITION OF TOWN COUNCIL OF TOWN OF NIAGARA FALLS,  
ENCLOSED WITH No. 164.

To the Honourable  
30 The Minister of the Interior,  
Ottawa, Ont.

*The Petition of the Town of Niagara Falls, HUMBLY SHEWETH :—*

That it having come to our knowledge that the Park Commissioners of the Queen Victoria Niagara Falls Park, contemplate closing up a certain public road and highway situate on the Chain reserve of the Ordnance Lands in this Town leading



down to the Niagara River, from a point opposite the Clifton House, which public road and highway was built by private subscription, at a large expense, for the purpose of access to the river to water cattle, and as an approach to the international ferry plying between Canada and the United States; and that there is no other access by roadway to the river in this Town, nor between this Town and Queenston, a distance of say seven miles,

We, the Town of Niagara Falls, humbly pray that the Park Commissioners be not allowed to erect fences on this part of the Chain reserve, or to in any way obstruct people from approaching and seeing the Horse Shoe Falls free of charge: 10 And we humbly pray that you will allow this portion of the Chain reserve of Ordnance Lands, to remain open and free to the people of this Town, and to the world, as it has always been.

That in our opinion, if the Park Commissioners are allowed to close up these roads, or to make any charge to the public for using them, it will be a most serious detriment to this Town, and that it will drive visitors to the United States side of the river, where the Falls in all their majesty can be seen free of any charge whatever.

And your petitioners as in duty bound will ever pray.

J. ROBINSON,

JOHN BENDER,

*Town Clerk.* [L.S.]

*Mayor.*

20 NIAGARA FALLS, August 18th, 1887.

## No. 166.

LETTER FROM COL. GZOWSKI TO DEPUTY MINISTER OF INTERIOR  
BURGESS IN REPLY.

TORONTO, 9th September, 1887.

DEAR MR. BURGESS,—I thank you for sending me a copy of the petition from the Municipal Council of the Town of Niagara Falls, and for having informed the petitioners that there was no intention on the part of the Park Commissioners to close the road leading to the ferry.

I may add that as it is the intention to make the entrance to the Park free, it 20 will also remove what the Mayor calls "serious detriment to the town."

I note that you have not yet received the plan and description of lands which Messrs. Swinyard & Howard are requested to furnish, and that you will furnish me with a copy when you receive them.



I beg of you to allow me and the Commissioners to see the plans, and to communicate with you in regard to them, before any action is taken in reference to them by the Minister.

I ask this in the interest of the Park project, which I have every reason to believe has the Minister's approval.

Believe me to remain, very truly yours,

C. S. GZOWSKI,

*Chairman.*

To A. M. BURGESS, Esq.,  
10 Deputy Minister Interior,  
Ottawa.

## No. 167.

LETTER FROM COL. GZOWSKI TO SIR JOHN MACDONALD, ENCLOSING MEMORANDUM IN SUPPORT OF HIS REQUEST FOR TRANSFER OF LAND IN QUESTION, WITH MEMO. ATTACHED.

TORONTO, Monday, 12th September, 1887.

MY DEAR SIR JOHN,—As on my calling your attention to the application for a transfer of the strip of land at Niagara Falls, belonging to the Dominion Government, to the Park Commissioners, you kindly suggested to give you a memo. on the 20 subject, I enclose one which contains a summary of correspondence with the Department of the Interior to 9th September, inst.

Permit me to say that the granting of lease for any portion of the ground in that vicinity to construct works to attract visitors and levy tolls, will very seriously damage the Park.

I remain, sincerely yours,

C. S. GZOWSKI,

*Chairman.*

The Honourable SIR JOHN A. MACDONALD,  
&c., &c., &c.,  
80 Ottawa.

*Memorandum.*

TORONTO, 12th September, 1887.

On the 27th April last, I made application as Chairman of the Niagara Park Commissioners, to have the strip of land along the bank of the Niagara river,



reserved for the purpose of defence, and known as the "Chain reserve," transferred to the Commissioners for the use of the Park.

The reply received from Mr. Burgess, dated 18th May, was to effect that, on the 28th August, 1886, lease was granted for 21 years to Thos. Swinyard, H. F. Pierce and Geo. H. Howard, of so much of the Chain reserve as will enable the lessees to build a carriageway and foot-path, along the shore of the Niagara River, below the edge of the bank, in a southerly direction, to the dividing line between lots 144 and 145 in the township of Stamford, together with the privilege of constructing two tramways or elevators from the water's edge, with the use of sufficient ground in the 10 Chain reserve at the top of the bank to work the said tramways. Mr. Burgess's letter further says that, "the lessees were required to file in the Department before the 10th June, prox.," plans showing accurately, the location of the said carriage way and foot-path, and of the said tramways or elevators, and giving the quantity of land taken by them, the plans to be subject to the approval of the Minister of the Interior, and that on receipt of these plans the Minister will give my application his earnest consideration.

I assume that the lease like others of Government property is revocable at pleasure. On writing again in July I received a reply from Mr. John R. Hall, Acting Deputy Minister, dated 21st July, stating that the plans referred to were duly filed. 20 On 27th July, I wrote to Mr. Burgess, asking what action was taken in regard to the lease, and for a copy of the plans. To this letter I received a reply from Mr. W. in charge of the O. & A. lands that Mr. Burgess had but just returned from the North-West, and that my communication will receive his early attention.

On the 19th August, I wrote again to Mr. Burgess making a similar request. To this letter I have a reply from Mr. Burgess, dated 26th August, in which he informs me, that since Mr. Hall's communication to me, it has been found necessary, owing to the death of one of the partners in the Tramway Company to issue a new lease, covering less quantity of land, and that the plans have not yet been received.

Mr. Burgess also asks to allow matters to stand till the Minister's return from 30 the North-west.

To this I replied on 9th Sept. asking for a copy of new plans, and postponement of action in these plans, till the Minister hears from the Park Commissioners in the interest of the Park project, believing it has his approval.

C. S. GZOWSKI.



**No. 168.**

LETTER FROM DEPUTY MINISTER OF INTERIOR BURGESS TO COL. GZOWSKI, WITH TELEGRAM FROM MAYOR OF NIAGARA FALLS.

DEPARTMENT OF THE INTERIOR, CANADA,

OTTAWA, 28th Oct., 1887.

SIR,—I beg to send you herewith duplicate of a telegram from Mr. John Bender, of Niagara Falls, transferred by order of His Excellency the Governor General to the Minister of the Interior, having reference to the closing by the Park Commissioners of Front St., on the Chain reserve near the Clifton House; and to request you to be good enough to favour me, as early as possible, with a report upon the matter, for the information of the Minister.

Yours truly,

A. M. BURGESS,

Col. C. S. Gzowski, A.D.C.,

*D. M. I.*

Chairman of the Queen Victoria

Niagara Falls Park Commissioners,

Toronto, Ont.

**No. 169.**

TELEGRAM FROM COL. GZOWSKI TO DEPUTY MINISTER BURGESS.

20

*Telegram to A. M. Burgess, Dep. of Minister of Interior, Ottawa.*

31st Oct., '87.

On Wednesday shall send report, with sketch; reply to yours of 28th.

C. S. GZOWSKI.

**No. 170.**

LETTER, COL. GZOWSKI, TO DEPUTY MINISTER OF INTERIOR BURGESS.

TORONTO, 2nd Nov., 1887.

To A. M. BURGESS, Esq.,

Deputy Minister of Interior,  
Ottawa.

SIR,—I have the honour to acknowledge receipt of your favour of 28th ult., accompanied by a copy of a telegraphic message to His Excellency the Governor General, from Mr. John Bender, of the Town of Niagara, informing His Excellency



that the Park Commissioners are placing an iron fence across Front St., in the Chain reserve near the Clifton House, begging to have the Park Commissioners restrained from so doing, and that I should report upon the matter.

The fence referred to is the northern boundary of the Queen Victoria Niagara Falls Park, the public highway referred to is a portion of the St. Catharines, Thorold and Niagara Falls road, which terminated at the foot of Murray St. with a tollgate upon it. This portion of the road has been purchased by the Park Commissioners, under authority of the Act of the Ontario Legislature, passed last Session, entitled : "An Act respecting Niagara Falls Park." The made the same  
 10 point, viz., Murray St., free of tolls. In addition to this, a foot-way is in course of construction near the edge of the bank, protected by an iron railing, allowing pedestrians to obtain a full view of the Falls.

I enclose a sketch of the locality, showing the old and new roads and foot-paths, and return the telegram with order of reference.

I remain,

Very truly yours,

C. S. GZOWSKI,

*Chairman.*

## No. 171.

20 LETTER FROM SECRETARY HALL, OF DEPARTMENT OF INTERIOR, TO  
 COL. GZOWSKI, ENCLOSING COPY OF DEFENDANTS' PLANS.

DEPARTMENT OF THE INTERIOR,

ORDNANCE AND ADMIRALTY LANDS BRANCH,

OTTAWA, 4th November, 1887.

SIR,—I am directed by the Minister of the Interior, to enclose you a copy of one of the plans submitted by Messrs. Howard & Swinyard, of their proposed tramways along the Niagara River. This plan gives a fair idea of the land leased to them, and, as it seems to the Minister, does not in any way interfere with the Park.

He would be glad, however, to have your remarks upon it. Be good enough to  
 30 return the plan.

I have the honour to be, Sir,

Your obedient servant,

JOHN R. HALL,

*Secretary.*

Col. C. S. Gzowski, A.D.C.,

Chairman, Niagara Falls Park Commissioners,  
 Toronto, Ont.



**No. 172.**

LETTER FROM COL. GZOWSKI TO SECREARY HALL ACKNOWLEDGING  
LETTER OF 4TH INSTANT.

NIAGARA FALLS PARK COMMISSION, ONTARIO,

TORONTO, 8th November, 1887.

SIR,—I have the honour to acknowledge receipt of your communication of 4th instant, No. 1965, accompanied by a copy of one of the plans submitted by Messrs. Howard & Swinyard, of the proposed tramway.

In thanking the Honourable the Minister for the desire he expressed of obtaining my remarks in reference to the proposed tramway, &c., I beg to ask a few days' delay for my remarks, to allow me to examine the locality, in order better to understand what Messrs. Howard & Swinyard propose doing.

I remain,

Your obedient servant,

C. S. GZOWSKI,

*Chairman.*

JOHN R. HALL, Esq.,  
Secretary, Department of Interior,  
Ottawa.

20

**No. 173.**

LETTER FROM COL. GZOWSKI TO SECRETARY HALL.

NIAGARA FALLS PARK COMMISSION, ONTARIO,

TORONTO, November 12th, 1887.

SIR,—I had the honour of acknowledging, on the 8th instant, receipt of your letter of 4th instant, No. 1965.

Having since then carefully examined the map sent me, which I return, with the locality it assumes to represent, I am now able to state:

That the map does not correctly represent the actual surveys and boundaries of the land upon which the Hon. the Minister is asked to form a judgment.

The map does not show the boundary of the Park correctly, for it withholds the fact that the Park extends to and over the bank, as shown by the broad green line laid down on the plan which I sent to the Deputy Minister of the Interior on the 2nd day of November, to which I beg to refer.



The boundary line of the Park, as shown on the plan submitted by Messrs. Howard, is to create the impression that the works proposed to be built by Mr. Howard at the southern end of his project are not in the Park, while all the land to the southern end of the green line on the map forwarded by me on the 2nd instant is within the Park, subject to access down the bank to the ferry by the old road. The rights held by the Toll Road on the Chain reservation along the top of the bank since 1852 have been acquired and paid for by the Park Commissioners.

On Messrs. Howard & Swinyard's map, it is stated that the boundary between lots 92 and 93 of Stamford "boundary Government land undefined."

- 10 This is not correct, as the division line between 92 and 93 is clearly established, and it is at considerable distance to the southmost of the point claimed by the map to extend.

The application I had the honour to make on 27th April last, for the transfer to the Commissioners, for the use of the Park, that "strip of land along the bank of the Niagara River reserved for the purposes of defence, which extends from lot 145 and to 92, in the township of Stamford," was in consequence of the Park having been further extended, by Act of the Provincial Legislature, along the bank of the Niagara River as far as the town of Queenston.

The Commissioners having obtained power to acquire the toll road from the 20 Clifton House to a point near the Railway Suspension Bridge on lot 92, did desire to control the rights of Canada over the Chain reservation, notwithstanding the transfer by the Road Company to the Park Commissioners of their possessory rights.

The application to which I have referred, sought to obtain whatever rights the Government of Canada had in the Chain reservation between the points indicated in my letter of that date.

Having every reason to believe that the Commissioners had the support of the Government of Canada in the creation and development of the Park, and with the rights so secured to control, not only the the Chain reservation on the bank, but all lying between that reservation and the water's edge, vested by the Province of 30 Ontario in the Commissioners for the purposes of the Park, is the same ground over a great part of which it seems by Messrs. Howard's map, it is proposed to lay down a tramway and construct an inclined railway and an elevator.

Under these circumstances the Commissioners trust that Mr. Howard's application for the privileges which he asks of the Government will not be granted, as if given they cannot be used except as a vexation and injury to the development of the Park.

I remain,

Your obedient servant,

C. S. GZOWSKI,

*Chairman Queen Victoria Niagara Falls Park Commission.*

40

JOHN R. HALL, Esq.,

Secretary, Department of Interior, Ottawa.



**No. 174.**

LETTER FROM SECRETARY HALL TO COL. GZOWSKI.

DEPARTMENT OF THE INTERIOR,  
ORDNANCE AND ADMIRALTY LANDS BRANCH,  
OTTAWA, 29th November, 1887.

SIR,—I have the honour, by direction of the Minister of the Interior, to acknowledge the receipt of your letter of the 12th inst., and of the map therewith enclosed, which had been transmitted to you in my letter of the 4th instant. The Minister has had your communication under consideration, and it appears to him from the 10 map submitted by yourself that the whole of the tramway proposed by Messrs. Howard and Swinyard along the Niagara River, lies to the south and outside of the boundaries of the Park. This whole question, however, will very shortly be set at rest, for Messrs. Howard and Swinyard are having made on the ground, an actual survey of the property covered by their lease.

The Minister observes from your letter that the Commissioners have purchased the interests of the Toll Road Company on the Chain Reservation. Those interests simply consist, however, of the right to use in trust for the public a portion of the Chain reserve, some twenty feet in width from the Suspension Bridge to the Clifton House Hotel, for the purpose of a highway, and neither the company, nor their 20 assignees, had or have any right whatsoever to close the road, or to use that portion of the Chain reserve for other than road purposes.

I am further to say that the Minister cannot recognize any obligation upon this Government to hand over to the Park Commissioners every means of access to the Falls, but on the contrary, he thinks it might be of decided advantage to the public that there should be an independent means of communication to the Park at least.

I have the honor to be, Sir,  
Your obedient servant,

JOHN R. HALL,  
*Secretary.*

30 Col. C. S. Gzowski, A.D.C.,  
Chairman of the Niagara Falls Park Commission,  
Toronto, Ont.



26 April 1888  
23 March 88  
57 Vic 1  
Traces from New  
Road to  
Concession Park  
Waterloo

486

No. 175.

CROWN GRANT FROM PROVINCE OF ONTARIO TO PARK COMMISSIONERS OF LANDS IN QUESTION WITH OTHER LANDS.

A. CAMPBELL,

Province of Ontario.

VICTORIA, BY THE GRACE OF GOD OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, QUEEN, DEFENDER OF THE FAITH, ETC., ETC., ETC.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING.

KNOW YE, that We of Our Special Grace, certain knowledge and mere motion have given and granted, and by these presents, do give and grant unto the Commissioners for the Queen Victoria Niagara Falls Park in fee simple, all those parcels or tracts of land situate in the Township of Stamford, in the County of Welland, and in the Township of Niagara, in the County of Lincoln, in our said province, being composed of all those pieces or strips of land which lie along the bank of the Niagara River, in the Township of Stamford and County of Welland, between the lots hereinafter mentioned and the river, beginning at the north boundary of the Park opposite the Clifton House, and lying in front of lots number one hundred and twenty-nine, and broken front of one hundred and twenty-nine, and numbers one hundred and twenty-eight, one hundred and eleven, one hundred and ten, ninety-three, ninety-two, seventy-five, broken front seventy-four, broken front of fifty-nine, number fifty-eight, broken front of fifty-eight, broken front in front of number forty-one, numbers forty, twenty-one, twenty, and one, of the said township of Stamford and the Cross Concession or Gore in Stamford, and those pieces or strips of land which lie along the bank of the River Niagara, in the township of Niagara, in the county of Lincoln, in front of the surveyed lands, in front of lots number one, two, and three of the said Township as far as the town of Queenston.

GIVEN under the Great Seal of our Province of Ontario; witness the Honourable Sir Alexander Campbell, Knight Commander of our most distinguished Order of St. Michael and St. George, a member of Our Privy Council of Canada, Lieutenant-Governor of our said Province of Ontario.

AT TORONTO this twenty-sixth day of April, in the year of Our Lord, one thousand eight hundred and eighty-eight, and in the fifty-first year of Our Reign.

By command of the Lieutenant-Governor in Council.

Fiat No. 7141 f. f.

Desc. 21760 R.J.

AUBREY WHITE,

Asst. Commissioner of Crown Lands.



**No. 176.**

ORDER IN COUNCIL, ONTARIO, AUTHORIZING THE ABOLITION OF TOLLS ON THE MACADAMIZED ROAD.

ORDER IN COUNCIL, *approved by His Honour the Lieutenant-Governor, the 15th day of June, A.D. 1888.*

In pursuance of the third section of 51 Victoria, chapter 7, and by and with the advice of the Executive Council of Ontario, His Honour the Lieutenant-Governor has been pleased to authorize the Commissioners of the Queen Victoria Niagara Falls Park, and the said Commissioners are hereby authorized, to remove the toll 10 gate and abolish the collection of tolls over that portion of the gravelled or macadamized road lying between the Table Rock and Niagara Falls Suspension Bridge, on lot 92 of Stamford.

**No. 177.**

ORDER IN COUNCIL, CANADA, AUTHORIZING GRANT OF LANDS IN QUESTION, AND OTHER LANDS, TO PARK COMMISSIONERS, TOGETHER WITH REPORT OF THE SUB-COMMITTEE OF THE PRIVY COUNCIL, INCLUDING THE AGREEMENT AND CORRESPONDENCE IN REFERENCE THERETO, BEING THE FIVE DOCUMENTS FOLLOWING, MARKED *A, B, C, D, E.*

20 REPORT of a Committee of the Honourable the Privy Council, *approved by His Excellency the Governor-General in Council, on the 4th November, 1890.*

The Committee of the Privy Council have had under consideration, a petition to Your Excellency calling attention to the public utility of the Queen Victoria Niagara Falls Park, in recent years established upon the western bank of the Niagara River, in the vicinity of the Falls, and requesting the issue of a patent from Your Excellency's Government to a certain strip of land known as the Niagara Chain reserve.

The Sub-Committee to whom the matter was referred, submit the annexed report, dated 31st October, 1890, upon the subject, stating that in their view it is desirable that the lands in question, which are of little practical value to the 30 Government of Canada, should be conveyed to the Niagara Falls Commissioners, subject to the reservation for fortification or defence contained in a proposed draft patent set forth in said report, and in consideration of the stipulations contained in the agreement set out in said report, and of Colonel Gzowski's letter also therein set out, and recommending that an instrument under the Great Seal of Canada, in the form indicated in the said report, do issue in favour of the Commissioners of Queen Victoria Niagara Falls Park.



The Committee, concurring in the annexed report and the recommendations therein contained, submit the same for Your Excellency's approval, and they advise that the Secretary of State be authorized to forward copies thereof to the Lieutenant-Governor of Ontario, and to the Commissioners of Queen Victoria Niagara Falls Park.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. McGEE,

*Clerk, Privy Council.*

To the Honourable  
10 The Secretary of State.

(A.)—REPORT OF SUB-COMMITTEE OF PRIVY COUNCIL.

DEPARTMENT OF JUSTICE,

OTTAWA, 31st October, 1890.

To His Excellency  
The Governor-General in Council.

The undersigned has the honour to report as follows:—

By a letter, dated the 11th April, 1888, the Commissioners of the Queen Victoria Niagara Falls Park forwarded a petition to Your Excellency, calling attention to the public utility of the Queen Victoria Niagara Falls Park, in recent years established 20 upon the western bank of the Niagara River, in the vicinity of the Falls, and requesting the issue of a Patent from Your Excellency's Government, to a certain strip of land known as the Niagara Chain Reserve.

On the 10th April, 1888, His Honour the Lieutenant-Governor of the Province of Ontario wrote to the Honourable the Secretary of State a letter, to the effect that the application of the Commissioners had the approval of the Government of Ontario, and that it was of importance to the Park and to the object for which it had been established that the lands applied for should, without delay, be vested in the Commissioners, in order that the same might, during the travelling season of the then present year and thenceforward, be under the same control and management as the 30 rest of the Park, and, as he further stated, that he hoped in the interests of the public Your Excellency's Government would be pleased to accede to the application of the Commissioners.

These and other documents in connection with the matter have, from time to time, been referred to one or more of the undersigned, as a Sub-Committee, and they have now the honour to report as follows:—

The Niagara Chain reserve, so called, has generally been supposed to be a Military Reserve extending from the town of Niagara to Fort Erie, one chain in width, along the top of the western bank of the Niagara River to the water's edge.

*Important*



This property has for many years past been dealt with by the Government of Canada as Ordnance land, which, under the provision of the British North America Act, became the property of Canada, and the Government of Canada have, from time to time, issued conveyances, leases and licenses of portions thereof.

The Government of Canada have purported to grant the Clifton Suspension Bridge Company a grant, in fee simple, of a certain location occupied by that Company's bridge or piers; the Niagara Peninsula Bridge Company hold, under lease, a portion of the reserve at a rental of \$50 per annum to Canada; the Corporation of the town of Niagara Falls holds a license to occupy another portion, under rental to

10 Canada.

Notwithstanding, however, that the Dominion Government have claimed to own the property in question, the Government of Ontario and their patentees, the Commissioners of the Queen Victoria Niagara Falls Park deny the title of Canada to the property, claiming first that the whole of the land above referred to, extending from a line one chain from the top of the bank to the water's edge, was never, in fact, Ordnance Land, or, at all events, that the slope from the top of the bank to the water's edge, was not Ordnance land, and an action has been brought, and is now pending, against Messrs. Howard and Swinyard, the lessees of the Government of Canada, at the suit of the Commissioners, to eject them from the portion so leased as

20 aforesaid.

Other actions have also been brought, at the suit of the Commissioners, against persons holding portions of the reserve under the Canadian Government.

The undersigned do not admit the contention that the lands in question were not Ordnance lands, although it may be difficult, at the present time, to prove such a dedication on the part of the Imperial authorities as would prove that fact.

The litigation above referred to is now proceeding, and the defendants state that, in the event of its being established that the Government of Canada had no right to the property, they will claim damages from the Canadian Government by reason of their failure of title.

30 In view of the possibility that large claims might be made against the Government of Canada, in respect to the property in question, should the plaintiffs in the several actions succeed in establishing their title, the undersigned Minister of Justice, with the assent of the other members of the Sub-Committee, entered into negotiations with the Attorney-General of Ontario, and with the Niagara Park Commissioners, with a view of relieving the Government of Canada from all liability in the matter, and also with a view, so far as possible, to meet the wishes of the Government of Ontario in respect to the Chain Reserve.

The following arrangement, subject to approval by the Governments of Canada and Ontario, was entered into:—



(B.)—MEMORANDUM MADE ON BEHALF OF THE GOVERNMENT OF CANADA AND PROVINCE OF  
ONTARIO IN RESPECT OF CERTAIN LANDS WHICH MAY BE DESCRIBED AS FOLLOWS:

All those parcels or tracts of land situated in the township of Stamford, in the county of Welland in our said Province, being composed of all those pieces or strips of land which lie along the bank of the Niagara River in the Township of Stamford, in the County of Welland between the lots hereinafter mentioned and the river to wit, lots No. 144, 129, and broken front of 128, 111, 110 and 93 and the cross concession or gore in Stamford and also those other pieces or strips of land in the Township of Niagara, in the County of Lincoln, which lie in front of the surveyed land in front of lots No. 1, 2 and 3 of the said Township of Niagara as far as the town of Queenston, and which border on the Niagara River.

Whereas there has been a dispute between the said Governments as to the title of the said lands ;—

And whereas by virtue of an Act of the Legislature of Ontario (50 Vic. C. 13) intituled, an “Act respecting Niagara Falls Park” certain lands therein mentioned were thereby vested in the said Commissioners for the Queen Victoria Niagara Falls Park, and the Lieutenant-Governor in Council was authorized to vest in the Commissioners any part or portion of the Crown lands the property of Ontario lying along the bank of the Niagara River ;—

20 And whereas Her Majesty the Queen, in right of the Province of Ontario, in accordance with the said statutes by certain letters patent issued under the Great Seal for the Province of Ontario, did purport to grant certain other lands therein described in fee simple to the Commissioners of the Queen Victoria Niagara Falls Park for the purposes of the said park ;—

And whereas by reason of the said statute and the said grant respectively the said Commissioners have now vested in them whatever estate and interest Her Majesty, in right of the said Province, had in all the said lands as hereinbefore described ;—

And whereas Her Majesty the Queen, in right of the Dominion of Canada, did by two several instruments under the Great Seal of Canada, bearing date respectively 28th August, 1886 and 22nd July, 1887, purport to demise to Geo. H. Howard and Thomas Swinyard for a certain term and on certain conditions in the said instruments mentioned certain portions of the said lands therein described as follows :— from the dividing line between lots 92 and 93 to the dividing line between lots 144 and 145 in the township of Stamford aforesaid, with certain privileges in the said instruments mentioned ;—

And whereas the said Commissioners have brought an action against the said George H. Howard and Thomas Swinyard, claiming title to the lands described,

*Sundered  
9 June 1887*



which said action the said Commissioners have set down for trial at the present sittings for trial of causes in the High Court of Justice for Ontario at Toronto ;—

It is agreed that Her Majesty in right of the Dominion of Canada do forthwith make a grant to the said Commissioners of all the estate and interest (if any such there be) of the said Dominion or of Her Majesty in right of the Dominion in all the said lands, and in terms of a draft grant hereto annexed.

And the Ontario Government in consideration thereof, will indemnify against any damages (if any such there be) to which in case of the title of the Province of the said Commissioners being established against Geo. H. Howard and Thomas Swinyard, or in case of their admitting the said title they may be under their said lease legally entitled to against the Dominion or against Her Majesty as representing the Dominion.

It is further agreed that the said Commissioners, if the defendants desire, are to postpone the trial of the said action against the said Geo. H. Howard and Thomas Swinyard until the Autumn sittings of the Chancery division of the said court.

Nothing in this agreement is to be construed as preventing the expropriation of the lands mentioned in the said lease by the Commissioners or the Province on the terms and in the manner provided by law or as preventing the Governor-General from granting a fiat to the said lessees for a petition of right in the event of their desiring to prosecute any claim against the Dominion of Canada.

Toronto, June 8th, 1889.

ROBERT SEDGEWICK,  
*For Dominion of Canada.*

E. F. B. JOHNSTON,  
*For the Province of Ontario.*

(C.)—GRANT FROM CANADA TO THE PARK COMMISSIONERS, CANADA.

*Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith, &c., &c.*

TO ALL WHOM THESE PRESENTS SHALL COME,—GREETING:

30 Know ye that We of Our special grace and by and with the advice of Our Privy Council for Canada, have granted, surrendered, released and confirmed, and by these presents do grant, surrender, release and confirm unto the Commissioners for the Queen Victoria Niagara Falls Park, their successors and assigns, all those parcels or tracts of land situated in the township of Stamford, in the county of Welland, in Our said province, being composed of all those pieces or strips of land which lie along the bank of the Niagara river, in the township of Stamford and county of Welland, between the lots hereinafter mentioned, and the river, to wit : Lots numbers one hundred and forty-four, one hundred and twenty-nine, and broken front of one hundred and twenty-nine, one hundred and twenty-eight, one hundred and eleven, one hundred and ten and ninety-three, and the cross concession or gore in



Stamford, and those pieces or strips of land which lie along the bank of the River Niagara in the township of Niagara, in the county of Lincoln, in front of the surveyed lands in front of lots numbers one, two and three of the said township as far as the town of Queenston, together with all or any interest which the Dominion of Canada may have in any other lands heretofore granted by the Lieutenant-Governor in Council to the said Park Commissioners. To have and to hold the same to the said the Commissioners for the Queen Victoria Niagara Falls Park, their successors and assigns for ever, in trust for the purposes of the said Park, subject nevertheless and without prejudice to any valid grants, sales, licenses, agreements, leases, or agreements to lease, heretofore made, or entered into respecting the same, and subject also to the right of the Dominion of Canada to assume the said lands in case of the same being required for fortifications or for defence of the country, and provided also that these presents are not to be construed as expressing or implying any covenants for title.

In testimony whereof We have caused these Our letters to be made patent, and the Great Seal of Canada to be hereunto affixed.

Witness, John Joseph McGee, Deputy of Our right trusty and well beloved, the Right Honourable Sir Frederick Arthur Stanley, Baron Stanley of Preston, in the county of Lancaster in the peerage of Great Britain, Knight of the Grand Cross of 20 the Most Honourable Order of the Bath, Governor General of Canada, and Vice-Admiral of the same.

At Our Government House, in Our City of Ottawa, this      day of      in the year of Our Lord, one thousand eight hundred and eighty-nine, and in the fifty-second year of Our reign.

By command,

G. POWELL.

*Under-Secretary of State.*

The provisional agreement above set out was approved by the Lieutenant-Governor of Ontario in Council on the 15th June, 1889; a copy of the Order in 30 Council being as follows:—

(D.)—ORDER IN COUNCIL (ONTARIO).

*Order in Council, approved by His Honour the Lieutenant-Governor, dated the 15th day of June, A. D. 1889.*

The Committee of Council have had under consideration the report of the Honourable the Attorney General, dated 8th June, 1889, submitting for ratification and approval by Your Honour, a joint memorandum of the said date signed by the Deputy Minister of Justice of Canada, and the Deputy Attorney-General of Ontario, for the purpose of identification, with respect to certain lands heretofore vested in the Commissioners for the Queen Victoria Niagara Falls Park, so far as the



Province of Ontario has power to vest the same, and to which the title has heretofore been in dispute between the Governments.

The Committee are of the opinion that the agreement proposed in the said memorandum is satisfactory, and advise that the same be adopted and ratified by Your Honour.

Certified,            J. LONSDALE CAPREOL,

*Asst. Clerk, Ex. Council.*

Shortly after the passing of the Order in Council, some questions having arisen as to the meaning of the words "valid grants, sales, licenses, agreements, leases, or 10 agreements to lease, heretofore made or entered into," contained in the draft patent above set out, further personal communication was had with the representatives of the Government of Ontario and of the Niagara Park Commissioners, and an agreement was come to as to the obligations of the Ontario Government, and of the Commissioners, in respect to the same, such agreement being contained in a letter from Col. C. S. Gzowski, Chairman of the Commissioners, to the undersigned Minister of Justice, which letter is in the following words:—

(E.)—LETTER FROM COL. GZOWSKI TO SIR JOHN S. D. THOMPSON, MINISTER OF JUSTICE, CANADA.

TORONTO, 24th July, 1889.

20 To the Honourable

Sir JOHN THOMPSON, K.C.M.G., &c.,  
Minister of Justice,  
Ottawa.

SIR,—I have the honour to address you on the subject of the incidents to follow the issue of letters patent by your Government, to the Commissioners of the Queen Victoria Niagara Falls Park, of certain lands along the Niagara River, in accordance with the minute of terms signed on 8th ultimo, by Mr. Sedgewick, Deputy Minister of Justice, and by Mr. E. F. B. Johnston on behalf of the Attorney-General of Ontario.

30 From Mr. AE. Irving, solicitor of the Commissioners, I learn that Mr. Sedgewick pointed out yesterday to him, certain matters which had been put forward as within the provision contained in the draft of the letters patent as to grants, sales, licenses, agreements, leases, or agreements to lease, heretofore made or entered into respecting the same, and in respect of which it would be desirable that the Commissioners should indicate, that they would accept the suggestions of the Dominion Government.

The suggestions put forward by Mr. Sedgewick, as explained to me I have the honour to assure you will be observed, and in order that the position of the Commissioners may be thoroughly understood, I beg leave to rehearse them.



That the Clifton Suspension Bridge Company seem to have obtained a grant in fee simple from Canada, of a certain location occupied by that bridge, or by the piers of that bridge;

That the Niagara Peninsula Bridge Company (Cantilever) holds under lease paying a rental of \$50 per annum to Canada;

That the Corporation of the Town of Niagara Falls holds a license to occupy land, or a lease of land, at the Ferry Landing at a rental to Canada.

With respect to the two bridge properties, it is desired that the land described in the instruments issued by the Dominion Government, shall be vested in fee in those corporations, respectively, but in the case of the Cantilever Bridge, not to deprive the Commissioners of the Park right to cross under the bridge, for any purposes for which they may desire access across the land in the above instrument described, nor deprive the Commissioners of occupying any part of the Chain reserve on the top of the bank, in order to pass under that part of the Cantilever Bridge, or its approach, passing over the Chain.

And in the case of the Clifton Suspension Bridge, not to deprive the Commissioners of the right to cross under the bridge, for any purposes for which they may desire access across the land in the above instrument described, nor deprive the Commissioners of any part of the Chain reserve on the top of the bank.

20 And in respect of both of the said bridges, that there shall not be by the Commissioners, any interference with their uses.

And as far as the Cantilever Bridge is concerned, subject to payment, in lieu of the rental of \$50 per annum, the sum of \$1,000 in the meantime to be paid to the Commissioners; should it be hereafter judicially determined that the Chain reserve (so-called), including the slope to the water's edge, belongs to Canada, the Commissioners will refund this money to the Dominion Government.

That in respect to the license or lease to the Town of Niagara Falls, also within the provision thus stated, if interfered with by the Commissioners, for such interference the Dominion Government shall be indemnified against the claim of the Town of Niagara Falls, or those holding under them.

These engagements, I have the honour to remark, are all such as were in contemplation as the terms, among others, upon which the letters patent to be issued by the Government of Canada to the Commissioners were based.

With reference to the further question raised by the claim made by James Murray, the assignee of John Lawrence, the Commissioners undertake to indemnify the Government of Canada against that claim, if the circumstances shew that the purchase money paid by Lawrence, was passed, to the credit of the late Province of Canada before Confederation.



Should it hereafter appear that the Dominion Government has purported to convey, or transfer, to any other person or company, any interest in the lands described in the proposed letters patent, or any portion of the same, the Commissioners will indemnify the Dominion Government against all claims which may be made against it by reason of such instrument.

Tusting that the foregoing will be in accordance with your wishes.

I have the honour to remain, Sir,

Your obedient servant,

C. S. GZOWSKI,

*Chairman of Commissioners of the*

*Queen Victoria Niagara Falls Park.*

10

The undersigned have now the honour to state that, in their view, it is desirable that the lands in question, which are of little practical value to the Government of Canada, should be conveyed to the Niagara Falls Commissioners, subject to the reservation for fortifications or defence contained in the proposed draft patent, and in consideration of the stipulation contained in the agreement above set out, and Colonel Gzowski's letter; and would therefore recommend that an instrument under the Great Seal of Canada, in the form above indicated, do issue in favour of the Commissioners of Queen Victoria Niagara Falls Park, and that the Government of 20 Ontario and the Commissioners be so informed.

Respectfully submitted,

ADOLPHE CARON,

*Minister of Militia and Defence.*

JOHN S. D. THOMPSON,

*Minister of Justice.*

E. DEWDNEY,

*Minister of the Interior.*

LETTER FROM DEPUTY-MINISTER OF JUSTICE SEDGEWICK, TO MR. IRVING, ENCLOSING  
COPY ORDER IN COUNCIL.

30

DEPARTMENT OF JUSTICE, CANADA,

OTTAWA, November 4th, 1890.

D. 3293.

DEAR MR. IRVING.—I succeeded, yesterday, in getting the Order in Council passed, transferring to the Park Commissioners that portion of the Chain reserve (so called) as lies within the park limits.

I owe you an apology for the delay that has taken place in this matter.

There was a sub-committee of the Privy Council appointed to consider the whole matter, and the delay was solely occasioned by the difficulty in getting all the members of the committee to make a joint report.



There may be some delay in getting the patent executed, possibly a week or a fortnight. I, however, send you a copy of the report to Council which has been in terms approved.

I telegraphed to you last night, as soon as I heard the Order in Council went through.

Yours very truly,

ROBERT SEDGEWICK.

The report is dated on the day it went to Council. It was signed un-dated.

A.E. IRVING, Esq., Q.C.,

R.S.

10      Toronto, Ont.

LETTER FROM THE UNDER-SECRETARY OF STATE, CANADA, TO LIEUTENANT-GOVERNOR OF  
ONTARIO, ENCLOSING COPY ORDER IN COUNCIL.

DEPARTMENT OF THE SECRETARY OF STATE, CANADA,

OTTAWA, 11th November, 1890.

In your reply please }  
refer to }  
Letter No. 3862. }  
File No. 3667. }

SIR.—His Excellency the Governor General having had under his consideration in Council, a Petition, calling attention to the public utility of the Queen Victoria Niagara Falls Park, and requesting a patent to a certain strip of land known as the Niagara Chain Reserve; I have now the honour to transmit to you, herewith, for the information of your Government, copy of an order of His Excellency in Council bearing upon the question mooted in said petition, and of the report therein mentioned.

I have the honour to be, Sir,

Your obedient servant,

L. A. CATELLIER,

His Honour

*Under-Secretary of State.*

The Lieutenant-Governor of Ontario,

Toronto, Ont.



**No. 178.**

GRANT FROM THE CROWN (DOMINION OF CANADA) TO PARK COMMISSIONERS, OF LAND IN QUESTION, WITH OTHER LAND.

Recorded 2nd February, 1891, Liber 131.

Folio 266. L. A. CATELLIER.

DEP. REGISTRAR-GENERAL OF CANADA. REF. NO. 38360.

(GREAT SEAL.)

JOHN J. McGEE, DEPUTY-GOVERNOR, CANADA.

*Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland,*  
10 *Queen, Defender of the Faith, &c., &c.*

Robert Sedgewick, Deputy of the Minister of Justice, Canada.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, that We of Our special grace and by and with the advice of Our Privy Council for Canada, have granted, surrendered, released and confirmed, and by these presents do grant, surrender, release and confirm unto the Commissioners for the Queen Victoria Niagara Falls Park, their successors and assigns,

ALL those parcels or tracts of land situate in the Township of Stamford and County of Welland in the Province of Ontario in our Dominion of Canada, being composed of all those pieces or strips of land which lie along the bank of the Niagara 20 River in the Township of Stamford and said County of Welland, between the lots hereinafter mentioned and the river, To wit, lots one hundred and forty-four, one hundred and twenty-nine and broken front of one hundred and twenty-nine, one hundred and twenty-eight, one hundred and eleven, one hundred and ten, and ninety-three, and cross concession or Gore of Stamford, and those pieces or strips of land which lie along the bank of the River Niagara in the Township of Niagara in the County of Lincoln in the said Province of Ontario in front of the surveyed lands in front of lots numbers one, two and three, of the said Township of Niagara, as far as the Town of Queenston, together with all or any interest which the Dominion of Canada may have in any other lands heretofore granted by the Lieutenant-Governor 30 in Council, to the said Park Commissioners;

TO HAVE AND TO HOLD the same to the said Commissioners for the Queen Victoria Niagara Falls Park, their successors and assigns for ever, in trust for the purposes of the said Park, subject nevertheless and without prejudice to any valid grants, sales, licenses, agreements, leases or agreements to lease, heretofore made or entered into respecting the same, and subject also to the right of the Dominion of Canada to assume the said lands in case of the same being required for fortifications or defence of the country, and provided also that these presents are not to be construed as expressing or implying any covenants for title.





GIVEN under the Great Seal of Canada, Witness John Joseph McGee, Esquire, Deputy of Our Right Trusty and Well-beloved, The Right Honourable Sir Frederick Arthur Stanley, Baron Stanley of Preston, in the County of Lancaster in the Peerage of the United Kingdom, Knight Grand Cross of Our Most Honourable Order of the Bath, Governor General of Canada.

At Ottawa this fourth day of November, in the year of Our Lord one thousand eight hundred and ninety, and in the fifty-fourth year of Our reign.

By Command,

L. A. CATELLIER,

10                   *Under-Secretary of State.*

## No. 179.

REPORTER'S NOTES OF ARGUMENT RESPECTING ORDNANCE RESERVE QUESTION, IN THE MATTER OF THE NIAGARA FALLS ARBITRATION.

CLIFTON, 16th March, 1886.

In the matter of the Niagara Falls Park Arbitration *re* The Ordnance Reserve question.

PRESENT:—The Official Board of Arbitrators.

Mr. Æmilius Irving, Q.C., for the Commissioners; Mr. Kingsmill and Hon. J. G. 20 Currie, for Claimants.

### ARGUMENT.

Mr. ÆMILIUS IRVING, Q.C.—By arrangement, your Honours, we are now going to speak upon the subject of the effect that a piece of ground which I refer to as the Ordnance Reserve—of the way in which it affects these arbitrations which have been before you in respect to Mr. Bush, Mr. Brundage, Mr. Tench and Mr. W. O. Buchanan, in regard to lands which are on the eastern portion of lots 129 and 144, of the Township of Stamford, going as far south as P. S. Clark's land, and a few feet to the southward of that: P. S. Clark's land almost, with the exception of one or two feet, being, as appears on the map, the boundary line between 144 and 30 145, which, my present contention is, is the southern boundary of the so called Government Military Ordnance Reserve as may be dealt with. The history of the case is this: I will begin by stating that there is a document produced here, from the Crown Lands Department, as an extract from a book that they have, which speaks for itself. It is that which is marked Exhibit R in the Brundage case, and it is also filed here and will be so marked in all the cases. (*Counsel here read document referred to, and*



*proceeded.)* Well, then, that document establishes that, being recognized in that way. Then the next step, for convenience, will be the map—

Mr KINGSMILL.—Your Honours, I suppose I had better reserve any objections I have to the reception of this, to the end.

THE CHAIRMAN.—To save time you had better.

Judge SENKLER.—These papers were all produced by the witness from the Crown Lands Office.

Mr. KINGSMILL.—I concede that Mr. Kirkwood gave the same evidence now as before.

10 MR. IRVING.—Here is the copy of a map, Exhibit V. This is a plan showing the Military Reserve at the Falls of Niagara, signed by J. G. Chewett, Surveyor. Now this map shows the bearing of all the lines in question that we have heard of yet. (*Counsel here explained the map to the arbitrators.*) I will put in now certain patents. I put in the patent to Mr. Bender,—this has already appeared before you as Exhibit I in the Brundage case. That, as far as this is concerned, refers to 129 and a small quantity of broken land, and that (*pointing on the map*), according to my conception, includes this 129, and this, a small broken piece: it therefore applies to that which is coloured yellow. Now the object in speaking about this, is that it is to within one chain of the top of the bank, and thence along the bank, always at the 20 distance of one chain from the edge thereof, &c., with an allowance for road. Then I will put in the patent, which is Exhibit M, to James Forsyth, dated 31st Dec., 1798, and that covers this portion of the land (*pointing on the map*) that is coloured green along the margin; 144 and part of 145, and this follows, in the same language, to within one chain of the top of the bank of the Niagara River, then northerly along the top of the bank, at the distance always of one chain from the edge thereof, with the stream, from the place of beginning. The next that I think proper to call to your attention, are two Acts of Parliament, one, 7th Vict., chap. 11, and the other, 9th Vict., chap. 42. I do not think the 9th Vict., chap. 42, is material. The material Act is the 7th Vict., chap. 11, known as the Ordnance Vesting Act, and the date of 30 that is 9th Dec., 1843. We have not to-day the 7th Vict., chap. 11, to especially direct attention to it, but I think that all of it is to be found in the Consolidated Statutes of Canada, chap. 36, page 459. The position of these Ordnance lands, generally, was this: Some had been acquired or reserved as ungranted; this particular piece of land that I am speaking of, is that which is ungranted land of the Crown. There is no evidence whatever of any other portion beyond the reserve lying to the eastward of these lots having been granted by the Crown at all. The object of the Ordnance Vesting Act was, that these particular Military lands should be dealt with by a so-called Corporation, which, by that Act, was called the Principal Officers of Her Majesty's Ordnance Department, and that statute vested all these lands in the 40 Principal Officers, and all these lands therein were particularly described by schedule,



but that did not in any way affect the general term of the land in respect to such as were held for military purposes. (*Counsel here read extract from page 292 of the Statutes of Canada, chap. 24.*) Now, then, I am going to show Your Honours that at that time, in June, 1856, these particular lands in front of 144 and 129, and others, were in the Principal Officers by virtue of the 7th Vic. Here is a power of attorney executed by the Principal Officers, in favour of their representative in this country, James S. Elliott. (*Counsel here quoted the document referred to, marked Ex. N., dated 2nd August, 1844.*) Then, in pursuance of that, comes the surrender by James S. Elliott, referring to that power of attorney, acting on behalf of the Principal Officers of Ordnance. (See *Ex. O.*, dated 1st Oct., 1852, here read by counsel; *counsel also referred to Ex. J., dated 10th July, 1791.*) Then you will observe that that leaves ungranted, in 1852, a tract of land along the top of the bank, bounded by 192 on the north and 144 on the south; and P. S. Clark's land is at present the southern boundary, so to speak, of 144. Now, then, I refer to copies of documents which were put in before, first to *Ex. Q.*, of the 11th January, 1852, a letter of John Rolph to the Ordnance Department. John Rolph, as Commissioner of Crown Lands, addresses this letter to the Respective Officers of the Board of Ordnance at Montreal. A copy of that letter is produced here.

Mr. KINGSMILL.—Where is the original copy of the letter?

20 Mr. IRVING.—The original copy is in the Crown Lands Department.

Mr. KINGSMILL.—This is not for Ontario lands—I wanted to know whether this was a copy of a document at Ottawa.

Judge SENKLER.—This was before there was any Ottawa; the original letter that was sent they would keep, but the original copy, that was copied in the Crown Lands Department would be kept there.

Mr. KINGSMILL.—We ought to have got the original letter or a copy.

Judge SENKLER.—There is a copy entered in the book, and of that Mr. Irving has a copy now. There is no difference between the copy of a copy; there are no degrees in secondary evidence.

30 Mr. KINGSMILL.—I would like to refer your Honours to Best on Evidence, page 483: "A copy of a copy is not evidence."

Judge SENKLER.—That is not law; I do not hesitate to say so at once.

Mr. KINGSMILL.—I was only quoting Mr. Best.

Mr. CURRIE.—Does your Honour hold that a copy of a letter in Toronto would be evidence when the original could be produced?

Judge SENKLER.—That depends on the language of the statute allowing it to be put in, whether it comes within the terms of a public document; a letter written by a public officer generally stands on a different footing.



(*Mr. Irving here cited the law on the subject, and proceeded to read the letter referred to, marked Ex. Q.*)

Judge SENKLER.—That appears to have culminated in the surrender and what is the use of the correspondence?

Mr. IRVING.—Yes, the surrender is the first of October, 1852, months after that letter.

Mr. KINGSMILL.—Nothing that is in these letters is material.

Mr. IRVING.—It appears to me to be important in this way: it is among the matters that show that in 1852, the Crown Lands here, dealt with, and recognized, the 10 Military Reservation around the Falls as being under the control of another party. Here is a group of three Orders in Council marked Ex. P. dated 28th October, 1850, 9th December, 1852, and 27th April, 1853. (*Counsel here read Orders in Council referred to; also letter dated 5th February, 1852, in Ex. S.*) I asked Mr. Kirkwood to identify this map as being the enclosure of that letter. This is the plan they enclosed, referring to the fact of that land that was actually required for purposes of defence.

Mr. KINGSMILL.—That takes in everything, and goes up above this point.

Mr. IRVING.—Now there comes a series of letters here. There are one or two letters in these which do not necessarily belong to the particular point that we are 20 speaking of but belong to other cases. There is a letter from Hamilton Merritt to the Hon. John Rolph. (*Letter here read.*) Then the Principal Officers write to Hamilton Merritt. (*Reads letter.*) Then comes a letter of Mr. Merritt's, a further letter of the Principal Officers dated 16th November, 1852, to Hamilton Merritt. (*Letter here read.*) Then comes Mr. Merritt's reply. (*Letter here read.*) Then comes another letter from Mr. Merritt to the Commissioner; that had reference to the chain allowance, but from this point 92, down to Queenston, which they felt unable to recommend at that time. Then comes the license of occupation from William McDougall, Commissioner of Crown Lands, to the Municipal Council of the town of Clifton, which I understand to be only in respect to the land which had been 30 surrendered to the town of Clifton, viz., that part south of the lot 144. (*Counsel here read letter referred to.*)

Mr. CURRIE.—There is no pretense that they had more than a chain on top of the bank by the Ordnance Department.

Judge SENKLER.—I think you cannot very well say that, in the face of the surrender. I think the surrender begins at the distance of one chain from the top of the bank and runs down to the river's edge. Mr. Rolph contends that between the top of the bank and the river's edge, does not belong to the Ordnance.

Mr. IRVING.—Subsequently the Government accepted a surrender as I have read it to you.



Mr. KINGSMILL.—At that time the Commissioner of Crown Lands presumed that the whole Reserve was in the hands of the —

Mr. IRVING.—Not between 92 and 144.

Mr. KINGSMILL.—Oh yes; I think that is what the documents show.

Judge SENKLER.—Where is there anything to show that they contended that they had it between 144 and 92.

Mr. KINGSMILL.—This document speaks of it as the old Crown Reserve.

Judge SENKLER.—How far were the limits of Clifton at that time?

Mr. CURRIE.—I am told the same limits as at present; it was the town of Elgin 10 then.

Mr. IRVING.—I understand that in 1856 the town of Clifton got its present boundaries extended. I suppose, whether I am right or wrong, your Honour understands what I mean; what I mean is, that this license of occupation in favour of the town of Clifton, which I understand has the same boundaries as the town of Clifton or Niagara Falls has at present—that this license of occupation by the old Province of Canada when Mr. McDougall was Commissioner of Crown lands, granted to them all that the old province then owned; that the old province did not purport to give them any authority over the Ordnance reservation at the date of this document in 1862, because they only speak of the late Ordnance authority.

20 Judge SENKLER.—At any rate you contend that they could not give what they did not own.

The CHAIRMAN.—How long did that license of occupation extend?

Mr. IRVING.—For all I know it is in force to this day.

Mr. CURRIE.—There is no more formal grant than that that you are aware of?

Mr. IRVING.—No. Then here comes the particulars of a lease of an earlier date than that; a lease to the township of Stamford of the 9th May, 1853; I have to accompany it with this remark, because it appears somewhere among the papers that the township of Stamford never accepted the lease. It is granted by John Rolph, Commissioner of Crown lands. (*Counsel here read particulars of lease.*) 30 Then we next have the copy of a letter from Thomas Hector, dated 11th Dec., 1852, writing for the Commissioner.

Judge SENKLER.—All these letters are subject to the objection stated before, whether the copies in the Crown Lands Department are good evidence?

Mr. KINGSMILL.—The question is whether the copies in the Crown Lands Department, if they were here, would be evidence.

(*Mr. Currie here cited the section of the Crown Lands Act, stating under what circumstances copies of records in the public offices become evidence, see page 260 of Consolidated Statutes.*)



Judge SENKLER.—I think we will take them subject to the objection.

Mr. KINGSMILL.—There has not been any care taken in the production of the copies, in setting out that they are really correct copies of the documents they purport to be. (*Counsel here read letter 11th Dec., 1852.*)

Mr. IRVING.—That is to show what the action of the Crown Lands Department was, in respect to these lands that had been surrendered, and they all recognized also that these portions we are speaking of had not been surrendered. Here is another letter from Mr. Hector to Luke Carroll. It is the same as he had communicated to Mr. Street, so that I do not think it necessary to read it over to you. Then  
 10 there is another letter dated 11th Dec., 1852, from Mr. Hector to Mr. Merritt, informing him of the same. Next we have a letter from the Crown Lands Department, dated 29th Dec., 1852, from William Spragge to Hamilton Merrit. (*Counsel here read letter referred to; also extract from Report of Committee, dated 9th Dec., 1852.*) I do not know as this throws any light upon it; it replied to an application to open a road from the Suspension bridge down to Queenston. Here is a letter from the Town Clerk of the town of Clifton, dated 1858. (*Counsel here read letter referred to; also letter dated 14th May, 1853; also letter dated 6th Oct., 1852.*) That closed these letters. Then another matter that I may draw attention to is, that in the map of the Falls Company's lands, it shows that the northern boundary of  
 20 number 144 of Stamford, carried into it, ranges 22, 23 and 24, which are the pieces of land involved, all the way from P. S. Clark's land to Robinson's land, that is Bush's boundary of 144. Then another exhibit is Ex. G., which was the map of Mr. Buchanan's survey, of which we have had so much before us already. That shows the situation of these lots. (*Counsel here referred to the outlines of the map of the City of the Falls.*) Here are ranges 22 and 23. Mr. Buchanan's map takes in these ranges which he has subdivided. I think I have put in all my documents, except this one of the township of Stamford, which amounts to no more than knowledge and declaration on the part of the township of Stamford, of the question of the Ordnance right to the present route by by-law passed. That is marked Ex. I in  
 30 Brundage's case. Now having got so far with my evidence, comes the applicability of that to the Ordnance statutes. I have already referred your Honours to the 7th Vic., which I must perhaps ask you to look at, and then at 19th Vic. cap. 45. Then next after that is the British North America Act, section 108; that said that "The public works and property of each Province enumerated in the third schedule to this Act, shall be the property of Canada." Then the third schedule is as follows: (*Reads schedule referred to.*) Section 109 of the British North America Act provides for the public lands being held as the property of the Province. Now what I want to draw attention to that for is, that under the old Province of Canada, these lands were still recognized as being the property of the Imperial Government for  
 40 Ordnance purposes, and that I have shown that these frontages, beginning from 93



and going up to 144, and including 144 and 129, which I am most interested in at present, were not surrendered to the Province of Canada in respect to its uses for the Province for provincial improvements. Then these other properties remained in the Imperial Government, either under the title of Secretary of State or of Principal Officers, till the period of Confederation, when they, by the Confederation Act, were transferred and became part of the property of the Dominion of Canada, which they now remain. Therefore, the application which I have in reference to this, is, that these particular pieces which we are speaking of, say between 129 and 144, are always subject to being used for Crown purposes connected with the defences of the province, such as the Dominion of Canada might at any time feel necessary. There is the contingency, that they might think proper to erect any works, or any improvements, or do anything that they might choose, even to the extent we may say of building a railway along that edge, which might be very much more inconvenient and injurious than a blank wall, that the proprietors bordering on 144 and 129 might see nothing,—that is absolutely the property of the Dominion of Canada *qua* purposes to which it might choose to apply it. Take the case of a railway. Suppose such things have been discussed and proposed. Indeed there is a statute already—there is an Act contemplating a railway being built between certain towns.

MR. KINGSMILL.—From the Suspension Bridge down to Queenston.

20 MR. IRVING.—Not from the bridge upwards.

MR. KINGSMILL.—No; and under the bank too.

MR. IRVING.—Well, if so, these proprietors would have no claim whatever to say "you have thrown up a bank ten feet or five feet high, you prevent carriages going in, you destroy our view, you destroy our property." It largely effects the boundary of the property; they haven't got that entire right to frontage, which people assume they have, when they border upon one of the original surveys or concessions laid out by the public as the boundary; this never was granted land. Now, if your Honours think proper to have, together, the decisions which have been given in this country upon Ordnance Lands, I think I can give 30 them to you all in two or three minutes. I do not mean to say they are applicable, but they are applicable, in this sense, of what the effect of these statutes were in transferring Ordnance Lands. There is one, *Re Holmes*, 2 Johnson and Hemming, 527. That is an English case. (See also page 582.) Also *Tylee v. the Queen*, 7 Supreme Court Reports, 651. Then, if you will be good enough to consider—I do not say, as I have said before, that it is bearing upon it—*Sinnott v. Queen*, 27 Upper Canada, Q. B., 539; then 13 Upper Canada, Chancery, 503; that is *Ordnance Department v. G.W.R.* That was in respect to a contract that had been entered into between the Ordnance Department and the Great Western Railway, for the purchase of the lands across the garrison common at Toronto—that had 40 been entered into before the transfer. Though it was not among these lands transferred



to the Province of Canada, there it was held that the purchase money should be paid to the Province of Canada and not to the Ordnance Department. Then, there was another case connected with the Ordnance Department, which was a question between the Grand Trunk Railway, and Northern and Credit Valley, found in 27 Chancery, 232. These are merely expressions as to the force of the Ordnance Act, and how the property has been dealt with. Now another matter bearing upon it is this: You will remember that my learned friend, Mr. Osler, said, that the *nullum tempus* Act did not affect this land, and a case we have had in the Province of Ontario, where that Act came up, was *Re the Pelee Island Company*, in 18 Queen's Bench, 131. The 10 point there was that McCormick and others, had been in possession of that property for a great many years, more than 60 years, and they claimed title to it in that way, but the decision was, that as it was in respect to the waste lands, or ungranted lands, the *nullum tempus* Act, referring to 60 years, did not apply in that case, and therefore their title to claim by long possession did not amount to anything. (See Queen *v.* Williams, 39 Queen's Bench, 397; also Attorney-General *v.* Midland, 3 Ontario Reports, Chancery Division, 511.) There was another point that I was going to speak of in reference to this. We have put in the patent which shows that the property that we speak of as 129, and also 144, came to within a certain distance of the top of the bank. Dealing with 144, generally, we will say at present in respect to 20 that part of the land, I acknowledge Mr. Bush being in possession of it, and I say that the position of the fence which forms the boundary line between the Chain reservation and Mr. Bush, is to be ascertained by reading the terms of the patent firstly, and also that he has shown no title outside of his fence which we have acknowledged to be in him, and his witnesses that he called stated that it had been in that condition, that that had been the line of boundary for more than 40 years, and the witnesses generally throughout the case, had formed the idea that where the fence is at present, speaking generally, not exactly perhaps at the point where the extreme eastern and northern point is, but generally, that that line has been observed ever since, as the eastern boundary of the owner of Bush's land, from any evidence that we have. Now, I say, 30 that from the long continued acquiescence in that boundary, it is now to be accepted as the boundary; that there have been no Acts of possession shown, nor any attempt to disturb that fence. That gentleman shows that his eastern boundary is the chain fence. Then it has been said, too, that between the edge of the cliff and the top of the bank, as it is at present, and Mr. Bush's fence, in places, there is manifestly, a wider difference than a chain; therefore, how do you explain that? Well, I explain that in this way, in the first place I say that Mr. Bush cannot, after he and those prior to him have treated that as the boundary fence, claim anything to the eastward of it. I say that now, at a period of 50 years or more, that we cannot now assume that the bank, at that time, was in the same condition that it is at present; and the evidence 40 we had of Mr. John Kerr—you saw how poor his memory was from age—is very indistinct and indefinite, but we had some evidence from a younger man, who spoke



of about, I think, 1836 or 1837, at a time I think when he was a boy of 15. No one stated that there was a road up to the Table Rock ; the road down the ravine, the evidence is, was scarcely passable, and that they went up there to go to the brewery, or some establishment of that kind ; but between, it was all broken and swamp, up to the Table Rock.

MR. KINGSMILL.—Mr. Kerr said he looked upon it as a public road.

MR. IRVING.—That is not the point I am at ; it could not be a highway at all under the law I am showing to you. In reference to 144 and 129, Mr. Vert Fralick described there, very distinctly, that between where the fence of Mr. Bush is at present and the fence as it then was —

MR. KINGSMILL.—That is not evidence against Bush.

THE CHAIRMAN.—No, but it is in the Brundage case.

MR. IRVING.—And that is the point to which I would draw your attention ; it is evidence in all the other cases except the Bush case. Mr. Fralick in drawing a comparison between the present condition of the Chain reservation in front of 144 and part of 129, said that the condition of things was quite different ; that at the present time there was a broad slope of access to go down to the ferry road, and that in those days you came up precipitately through a narrow passage, which enabled a waggon to come up from below, up to the road, and that when you got there, and turned to go towards the Table Rock, if you turned to go that way, that between that part the road that was used to the left hand, or to the eastward of you, that the land was much higher and covered with cedar trees. The point I have in pressing you with this is this, that, as will be seen along this bank in many places, and as will be seen by looking at the opposite side, that where there is a ledge of rock in many places, generally, it is covered with earth, and land on the rock, that therefore the top of the bank would, in those days, only be measured from the top of that slope, as it then was, not as it is now, down in 1852 and 1853, when there was a macadamized road made and sloped down to the edge of the road going to the ferry, and not as it was done when Mr. Zimmerman made improvements to give a handsome front to his hotel. That entire front has been removed, and you cannot now correctly ascertain the way in which the slope of the bank was at that time, and which was the point of starting from the beginning to the top of the bank to take off the chain reservation, and that we are driven to this fact, that where there has been an acquiescence of 50 or more years in a particular line, we must at this time say that these proprietors took all their grant entitled them to, and that we cannot now go into all the past changes that have been made, upon a speculation, and with a changed outline of territory. Now then, there are two cases, Wideman *v.* Bruel, 7 Common Pleas, 134, and Iler *v.* Nolan 21 Queen's Bench, 309 ; and I have only one other class of cases to bring to your Honours' notice, and that is this : This question about the Ordnance Department, and rights along the river road, have been several times before



the courts, and I think I have them all here; and I think it would require but a minute to note them, even one or two that did not apply exactly to my point. I dare say my learned friends will cite these cases, but I want to say that they are not to be read as misleading in reference to my view. My view is, that that highway that leads down that road, that leads down past Mr. Bush's land,—that appears in all these maps—my idea is that this land that drops down here, through this little gorge, and goes down to the ferry, is an established highway by dedication, by such long user that there is no question in reference to it, but it is so recognized in one or two cases that I am going to speak of to you; but the recognition of that as a highway,  
 10 crossing the Ordnance department and going down to the ferry, is not to be widened so as to affect any part of the Ordnance lands, further than is necessary to give access over it from the high land to go down to the ferry, which was the ferry which had been licensed by the Government, and in each one of the cases was this, to which I am going to refer, that the Crown having licensed that to go to over to the American side, therefore it must be taken that the Crown acquiesced in a highway leading down across it. (*Counsel here cited Queen v. Davis*, 11 Upper Canada, Queen's Bench, 340.). This case amounts to no more than this, that the Crown conceded there was a highway, but that that does not affect the part coming from the Clifton House up towards the Table Rock, not being a highway, or being a reservation;  
 20 there is no evidence of dedication in that, and all the cases are contrary to that except in so far as this case is concerned.

Mr. KINGSMILL.—How do you get over the principle laid down there—That was the point of the case.

Mr. IRVING.—The principle that I see in this case, they absolutely recognize that as a highway down to the Falls, but because this other road has been used for public purposes, my learned friend says that, therefore, that is the chain reserve, that the same ought to be applied to that; I say no, I say when I have shown in evidence that when the road company applied for the license to construct over that, that they were distinctly told this is not a highway, this is reserved for Military purposes, this is a  
 30 matter of Defence, and if you construct a roadway over that, you are clearly to understand, that it is subject to revocation at any moment. The Ordnance Vesting Act, as your Honours will see, was specially drawn so as not to interfere. (See sections 1 and 4 here quoted.) Then another case is the *Queen v. Brown*, 13 Common Pleas, 356. I do not know that this case is directly applicable here, but it is a case that, sooner or later, your Honours will have to look at. *Queen v. Plunkett*, 21 Upper Canada Queen's Bench, 536, is a strong case to show that the public cannot gain a right of dedication while the fee remains in the Crown. That was the case of a piece of land which had not been laid out under the original surveys as a highway or concession side line, but it was a piece of Crown land. It shows that they cannot  
 40 get a right of dedication while the fee is in the Crown. *Queen v. Hall*, 17 Common Pleas, 282; *Queen v. Mills*, 17 Common Pleas, 654; *St. Catharines v. Gardner*,



20 Common Pleas, 107 ; 21 Common Pleas, 190 ; Queen *v.* G. W. R. 32 Upper Canada Queen's Bench 506. In this case the Great Western runs through the Town of Chatham, and towards the west end of it; it was claimed that there was a road there and that it had been occasionally used, and used before the Great Western was in existence, and that they ought to be compelled to open it, and they showed some considerable use, but it was denied on the part of the Great Western that there had ever been a dedication, and this was the position of the facts. Highways were laid out by the Quarter Sessions, but the statute said that, while a resolution might be passed at one sitting of the Quarter Sessions, that could not be made a highway unless by  
10 some subsequent dealings, that it should be confirmed at a second session of the Quarter Sessions, and the presumption of dedication was defeated. As it was shown that there had been no dedication therefore the long user for so many years did not operate to make it a highway. Then there is the Queen *v.* Davis, 35 Upper Canada Queen's Bench, 107 ; Queen *v.* Davis, 24 Common Pleas, 575 ; Grand Hotel *v.* Cross, 44 Upper Canada Q. B., 143. The point in reference to this case is to show that there is nothing in this or any case that I am aware of, or those I have cited, which in any way affects the question in respect to 144 and 129, that any occupation of that by the present road company is all subservient to the general license—subject to the terms of the license.

20 THE CHAIRMAN.—Assuming all your arguments are correct, what effect ought that to have upon the case,—assuming your arguments to be correct, that this is Ordnance land along there.

Mr. IRVING. Then I say that it is under the control of and belongs to the Dominion—all this Ordnance property in front of 129 and 144; that it is not a highway; that the Dominion have permitted the road company—subject to the terms of the license—to use it, but that, if the Dominion should revoke that, the property would then be free from the right of the public to pass over it, and that the persons whose lands open upon that, under the patent, do not necessarily get a frontage bordering upon the highway; they only get a frontage bordering upon some other  
30 person's land.

THE CHAIRMAN.—You consider that that affects the frontage?

Mr. IRVING.—I consider that that affects the value of the frontage, that they may be cut off from the view, that it may be occupied by a railway embankment, that it may be occupied by earthworks or any other purpose that the Crown in its wisdom chooses to apply it to. I merely point these things out. I do not think I am called upon to suggest improbabilities; we might suggest military occupation, and it might unhappily be used, but I am not saying that some commercial enterprise might, in the great interests of the public, not be required.

THE CHAIRMAN.—Could it be granted for the purposes of a park?



MR. IRVING.—I think they could grant it for any purpose they pleased, subject to being revoked. They are not bound to let the road company remain there. They can use it for any purpose in their pleasure.

Judge SENKLER—You say that the doctrine of presumption of dedication is rebutted when the origin is shown in some other way, in some special purpose?

MR. IRVING.—Yes.

THE CHAIRMAN.—But they can, if they choose, grant it for the purposes of a park.

Mr. IRVING.—There are certain things which will be shown that the Crown 10 cannot do, irrespective of an Act of Parliament. There are certain prerogative rights, and there are certain matters to which the prerogative of the Crown do not extend without an Act of Parliament, and I shall have occasion to bring that up—and this, to some extent, is in my mind, in the same kind of a way. That is all I have to say.

THE CHAIRMAN.—But if the Crown can grant that land for the purpose of a park, I would like very much to know whether they can without any Act.

Judge SENKLER.—The local Crown cannot, if we may so express it—it is the general Crown.

Mr. IRVING.—Of course the local Government has no territorial rights over 20 that property.

[Court here adjourned at 2.05 p.m. for one hour.]

Mr. NICOL KINGSMILL—Mr. Chairman and gentlemen, in this case, as I understand my learned friend, he expects to rebut the presumption which exists in favour of there being a real and *de facto* highway along the river bank, by the fact that the dedication won't be presumed, upon the part of the Crown, notwithstanding the proof of long actual user, because the Crown had dedicated the property, a strip, to other purposes. Well, there is no evidence, in this case, of any actual dedication. The patents that have been put in, show that there was a Chain reserve in front of these lots that were patented, which, in the absence of anything else, I presume 30 would be held by your Honours to be a reservation which is usual in patents, and which is for the convenience of the public, and not for any special purpose. And the first evidence that we have—the commencement I may say of any evidence of dedication for any particular purpose—is the extract from the minutes which appears to be signed by Mr. Chewett (see Ex. R). This is signed by Mr. William Chewett, Acting Surveyor-General, and it is his opinion as to the question whether or not this was reserved for military purposes. He states that it is not a reservation under the patents, but it appears to have been embodied in a statement in the Crown Lands Department, as the opinion of Mr. Chewett, that that was a military reservation. Now I hold that that is no sufficient presumption of an actual dedication of 40 land; why even the Crown Lands Department themselves, treated this particular



property in their own matter as being a military reserve ; there is no dedication which should be held to over-ride the dedication which would be presumed, from the fact of the Ordnance Department themselves, and the Government, having allowed it to be for over 60 years, as I have proved by Mr. Kerr's evidence. It would be a question in your Honours' minds as to the validity of different presumptions ; and I think you would have little difficulty in holding that what had *de facto* been used as a highway, and been before the nose of the department for so many years as a fact, that the public were making use of it, that there would be no doubt in your Honours' minds, as to which presumption should have the most effect. There is 10 another circumstance too, which adds to the force of the presumption in favour of the user, and that is, since some time in 1852, we find no claim made on behalf of the Ordnance Department, that this is military land. It has, quite evidently, been treated, ever since 1852, at all events by the public, as a highway, and there has been no objection, for a period extending considerably over 30 years, to the user in that way, and by the Act of 19 Victoria, chapter 45, which was assented to on the 19th June, 1856, three or four years after this correspondence took place, it appears that an alteration was made in the position of the then Ordnance land. The title was changed from the Principal Officers of the Ordnance, to the Principal Secretary of State for War. That was 19 Victoria, chapter 45, but in the preamble to that Act it 20 is stated : "And whereas, the Ordnance lands within this province consist at the time of the passing of this act, etc," and it goes on to change the vesting of it from the Principal Officers into the Secretary for War. When we come to look at the two schedules to the act annexed, there does not appear to be mention made of these lands. There is a very exact and particular schedule made of all the lands that were intended to be transferred under that, and the name of Niagara is missing, but other places in that immediate locality are there, showing that great particularity was given at that time, to the statement that was made in the schedule, and no doubt the schedule was made out with all the care that could be, when it was to be incorporated in an Act of Parliament, but there is not a word of 30 all that in this general reservation, so that in view of the fact that, after 1853, there is no claim by the Ordnance to it, and that in 1856, in the Act that was passed, it is stated what the Ordnance lands are, and that this was omitted, I think your Honours would be safe in coming to the conclusion that, about this time, these lands had changed their position.

Mr. IRVING.—Would you allow me to make an observation ? They are not omitted from the statute of 19 Victoria. If you will kindly look at the statute of 19. Victoria, section 2, you will see that it refers thus : " All lands, \* \* comprised in the first schedule \* \* and all other lands \* \* which, by virtue of the 7th Vic., chap. 11, or of any other Act or Acts, or of any conveyance \* \* have been 40 \* \* vested in the Principal Officers of the Ordnance on behalf of Her Majesty \* \* shall \* \* henceforth be vested in the Principal Secretary of State for



the War Department, subject" \* \* What I beg leave to submit to you is, that you omitted the general words of 7th Vic., chap. 11, which says, not only those in the schedule, but all other lands.

Mr. KINGSMILL.—I am not talking about the 7th Victoria. Under the 7th Victoria, I am willing to admit that, by the general words, these lands might pass; but when it comes to the 19th Victoria, which is after, as I point out to your Honours,—after the last time that the Ordnance had ever attempted to deal with these lands, they state summarily in the Act that, whereas the lands that belonged to the Ordnance, are attached to the schedule, and that in the schedule they do not appear.

Mr. IRVING.—I directed you to the section where it says, "and all other lands."

Mr. KINGSMILL.—I referred to the preamble, and then I called attention to the letter of 1862, or rather the license of occupation of 1862. In that license of occupation, the then Commissioner of Crown Lands attempts to deal with the whole of this strip. My learned friend stated that he read that to be the strip that had already been conveyed, but I do not see anything in the license of occupation to warrant that. It is exclusive of these portions of the late Ordnance Reserve, and of the strip of land lying in front, heretofore leased, etc., and it would seem to have been in the mind of the then Commissioner of Crown Lands, that this property had gone into the ordinary category of Crown lands, that could be so dealt with. Now, if I am right in that contention, and that these lands had not been dedicated by the Crown to any particular purpose, it is quite clear that, under the authorities, user will be admitted to prove dedication by the Crown, that is to say, the dedication will be presumed as against the Crown, as well as it would be against a private individual, and there are some authorities in reference to that to which I would like to refer your Honours. In the first place, in *Taylor on Evidence*, in the edition of 1878, he says: "Notwithstanding the rule which provides, etc." (*Counsel here cited authority referred to, beginning as above.*) However, that was founded upon the cases that I will give you. There is the case of the Mayor of Hull *v.* Horner, Cowper, 102; Jenkins, *v.* Harvey, 1 Compton, Meeson and Roscoe, page 877; they lay down the doctrine that charters and grants from the Crown may be presumed from length of possession, not merely in suits between private parties, but even against the Crown itself." Harper *v.* Charlesworth, 4 Barnewall and Cresswell, 574, "When a public footway over Crown land was extinguished by an Inclosure Act, but for twenty years after the inclosure took place the public had continued to use the way, it was ruled that this user was no evidence of dedication to the public, as it did not appear to have been with the knowledge of the Crown." And in R. *v.* East Mark, 11 Q. B., 877, "yet there may be a dedication by the Crown, and where the user has been uninterrupted for forty or fifty years, and the land not under lease, the dedication ought to be presumed, whether the freehold be in the Crown or in an unknown party." Then there is an old case, in 6 Appeal Cases, page 639, Turner *v.* Walsh



(English), decided in 1881: Sir Montague E. Smith, "user for forty years; a road has been used as a mail road, and in fact it had been used by the public, for all purposes during this period, continuously and without interruption. Upon such evidence the judge would be right, unless some positive restriction on the power of the Crown appeared, directing the jury that they might presume a dedication of the road by the Crown to the public. The presumption of dedication may be made where the land belongs to the Crown, as it may be where the land belongs to a private person. From long continued user of a way by the public, whether the land belongs to the Crown or to a private owner, dedication from the Crown or the private owner, as the case may be,

10 in the absence of anything to rebut the presumption, may, and indeed ought to be, presumed." So that if this land is as I say, I do not know what the actual state of the title may be. It has been somewhat foreign to the whole basis of the enquiry we have been making, to treat a case of this kind, and whatever the actual title may be, I say that upon the evidence that has been brought before your Honours, there is nothing to warrant your Honours that this is Ordnance land, any more than in presuming that it is not; and that that being the case, your Honours would take the matter as it is, and treat this as a highway. Then there is another point, that under the British North America Act, presuming this to be Ordnance lands—these were vested in the Dominion of Canada—well now, that Act has been passed very nearly 20 years, and the

20 user of this highway has continued the same, since the passing of the Act, as it did before, and I think that the user is against the Dominion of Canada. There is nothing in any of the Acts that I can find, nor as my learned friend alleges in argument, there is nothing to show, that the Dominion held these lands for any special use. Supposing that they were at one time Ordnance lands, they are now, under the British North America Act, public lands, and so the ordinary doctrine would apply to them, that user by the public might presume a dedication as against them. But even supposing that they were still Ordnance lands, I do not think that the matter would present any different aspect. Fortunately in reference to that there is direct authority, which has been given to your Honours by my learned friend, and which he

30 has tried to get rid of the effect of. I refer to the case of *The Queen v. Davis* in 11 Queen's Bench. Now the right involved in that case was in reference, as it happens, to this particular spot; and in that case his Lordship, Chief Justice Robinson, points out that this Ordnance Board would have been, after all, simply the agent of the Government. I refer to page 343 in reference to that—he says the Ordnance Board were in the Department agents of the Government, and he cannot think or hold otherwise, than that the Crown must be supposed to have knowledge of the existence of the highway, and its unrestrained use and enjoyment by the public. One does not see very well why, because the property is vested by the Crown, in a certain department, or with a certain agent, why they should acquire a

40 higher title, as it were, than the Crown possessed themselves, and a title that was less destructible by user by the public, than the Crown possessed them-



selves. In that case, to which I would ask your Honours' particular attention, on page 344, the Chief Justice says that "the case of Harper *v.* Charlesworth shows that there may be a dedication by the Crown presumed as well as by the individual. There is nothing in the Ordnance Vesting, Act 7 Vic. chap. 11, that could interfere with any public right of way that had been acquired by statute grant of the Crown, or otherwise, over any of the property thereby vested in the Ordnance. On the contrary, the first and fourth sections seem intended to guard against any such effect being ascribed to the statute." These clauses are in 7, Victoria which we have not been able to get to-day, but they are consolidated in the Consolidated Statutes of 10 Canada, chap. 36, and the words are "provided always that nothing in this Act or in the said Act shall extend to vesting in the Principal Officers, etc., than is vested in the Crown." That Act as it stands, applied to all Ordnance property up to the time of Confederation, so that if that is the proper reading of that statute by Sir John Robinson, that would be the proper reading of it now. Then there is another matter that I think I should direct your attention to, and that is, that in these cases, I do not see by what possible right, or title, or claim, my learned friend can set this up. I may add too, before I commence that part of my argument, that in the Niagara Falls Park Act, the Act under which you are already proceeding, this road is treated as a highway by the Ontario Government; it is mentioned as a highway and spoken of as a highway and power is given to the commissioners, or to the company that is to be formed by the authority of the Lieutenant-Governor in Council, to remove it providing they substitute another. So that the Ontario Government have been treating this property not only as if it was their own, but as if it was not Ordnance lands, and acting under the commissioners who derive their sole authority under this Act; and we are only able under the authority of this Act, to come before your Honours, and I think that they would be, I submit, estopped from saying that the declarations of the Act are not correct. I also call your attention to the maps that have been filed. Your Honours will perceive that in this map that is supposed to accompany one of the letters, which my learned friends think is important, as 30 showing that the Ordnance believed this to be Ordnance property, and reserved it as being part of lot 144 for Ordnance property, a palpable mistake occurs in the fact that, instead of reserving only a piece here, the whole plot is reserved. It is quite evident that if the contention of Mr. Chewett that the chain reserve, the military reserve was alone reserved, that there was an error in this map in taking in the whole quantity of the Bush property, and going, as it were, a chain above the hill, and in the map, in the other map that is filed, there seems to have been an *animus dedicandi* to the public, on the part of the Ordnance themselves, if this is the plan that shows the reserve, because here we have, coming along here at this point, and down here, and going along here, what they themselves say the dotted line, shaded red, shows a desirable road to visit the Falls connected with the main road and ferry. When this plan 40 was filed, there evidently was an absolute intention, that is in 1831—if this map is any



use as evidence at all, it would seem that there was an intention—on the part of the Ordnance Department, to reserve that, at that time, for a road; and there is no sensible reason why it should not be so. It is quite likely if it is used for purposes of defence, what would be needed there—and I presume that Her Majesty would have the right to take in all her highways if she needed them for purposes of defence—and if, as in here, all the correspondence with the road company, in which the Principal Officers of the Ordnance say that they reserved the right to occupy the road, or to obstruct it at any time, merely means that they would not offer to this road company the power to use it as a highway, and collect tolls upon it, without the understanding that if it is ever necessary for the purposes of defence to take it for the purposes of Government, they should not pay any damages for it. There would nothing more appear from that correspondence than that; as a matter of fact, there does not appear to have been any intention on the part of the Ordnance Department, or anybody who has been in command of Her Majesty's affairs for so long, to absorb that for military purposes. Col. Currie, who is an authority in military matters, tells us, it would be absolutely useless; that if there ever were to be any defences there, they would have to be from the high land above; and looking at it from the common sense point of view, it would seem to be utterly impossible that the Ordnance could ever take that property for such purposes.

20 To go back to the point from which I diverged, I do not see by what right in this enquiry, the *jus tertii* of the Ordnance Department, or the Dominion Government, is to be set up. It would seem to me to be a thing that is manifestly out of the record here. I do not understand from my learned friend that he has any authority from the Ordnance Department, or the Dominion Government, to come here and say that they are going to take this land, and I do not see that there is any ground upon which their rights can be set up. Now, your Honours, so much for the law part of the case. As regards the effect upon this property, supposing it was shut up, I do not see that your Honours can take into consideration so remote a contingency as that it would be closed. But if it were closed, my learned friend would be placed in this 30 dilemma, to say that it was either to be occupied or not to be occupied; he has suggested it might be occupied for parks or fortifications; I may say, that if so, it would only have the effect of turning Mr. Bush's property into the key for the Falls; would, establish for him a kind of Prospect Park on this side; and without getting through his grounds no one would have access to it.

HON. J. G. CURRIE.—Your Honours, I am rather surprised that Mr. Irving, representing the Ontario Government, or the Park Commissioners, attempts to show title in either the Ordnance Department or the Dominion of Canada. It can be taken for granted that in 1787, when Mr. Jones first surveyed this section of country, all the lands were Crown Lands. The commissioners have not attempted to show how the 40 Ordnance ever got these lands. I conceive there are only two ways that the Ordnance



could get Crown Lands in this Province, first either by actual possession, or by surrender or grant from the Crown. Now there has been no attempt whatever to show that this strip of a chain was ever in the occupation of the military authorities, or that they ever had a grant from the Crown, and while perhaps neither the Province of Ontario, nor the Dominion Government, after what has transpired, could question, and might perhaps be estopped by the correspondence, and other documentary evidence, that has passed between them, estopped from disputing this, these parties are not in that position to-day. We are in a different position. We are not estopped by any documents in the Crown Lands Department, or any correspondence that has taken

10 place between the Crown Lands and the Ordnance Departments. The patents, copies of which are before you, show that when these lands were granted the Crown reserved the use of one chain from the top of the cliff; the Crown Reservation was a reservation for public purposes; not a word in the patent—not a word in anything we see—to show that that reservation was for military purposes. I would refer your Honours to the case of Clark and Street *v.* Bonnycastle, 3 Old Series, Upper Canada, Q.B.R., 528. But when the patents issued, there is no doubt the patents included that reserve laid out by Jones, and gave it to the owners of the lot, and made this reservation on the bank of the river on the lower bank. It has been proved, as argued by Mr. Kingsmill, that the public have used that road, for a great number of years, as a public road;

20 and all the maps put in before you in these cases, I think go to show it along the top of the lower Bank—the maps filed by all the parties. And let us see how this Joint Stock Company's Road Act treats this case. In 1852 or 1853 the Company got permission to construct a macadamized road on this very Chain, and we find that in all the acts treating it in the Ordnance Department after that, that

this particular Chain is not scheduled. This road company's Act contemplated building roads not only on streets and concession roads, but also on private property and upon property owned by the Ordnance Department. When they got that consent, when they constructed that road, section 75 of the same Act declares what shall be vested in such company and their successors; it vests the road, vests everything

30 in the company, after the preliminaries have been complied with; and we have had in evidence that, in 1852 or 1853, the toll road is actually constructed, and gates put up, and the public have been using that road, which has been in the possession of the company ever since; and I submit, your Honours, sitting under the provisions of the Act, a copy of which I hold in my hand, you can hardly question this being a public road, a highway, for the very Act under which you are sitting here to-day declares it to be a public highway. The Province of Ontario, by Act of Parliament admits it to be a public highway.

Mr. IRVING.—It says an existing highway. My point is that it cannot be a highway; why, that is settling the whole point.

40 Mr. CURRIE.—That is just where you differ from the trustees of the people in enacting this Act, declaring it is an existing highway, and providing for the change



of that highway on certain terms. I conceive it is very late in the day for you to question this being a highway, it having been used, as far as I can see, by the public, without interruption, some 30 odd years ago, the road company building a road upon it, with the consent of the Ordnance; admitting it is Ordnance lands they get consent to build the road, and the road Act declares it belongs to them and their successors for all time. I would like to give your Honours another case or two. One is in Law Reports, 1 Equity, 204, *Vestry of Burmosie v. Bone*; *Queen v. Petrie*, 4 Ellis and Blackburn, 737, and W. V. L. Darby, Law Reports, 2 Exchequer, 316. In that case there was evidence of user during the whole period the land had been under lease,  
10 and the court held that the judge had told the jury correctly, that there had been user anterior to the lease.

Mr. IRVING.—I wanted to observe that the case to which he referred, *Queen v. Davis*, that that did not apply to the chain on top of the bank, that that applied down below, upon the acknowledged highway to get down to the ferry, in respect to which the Crown had given a grant, and had, therefore, to be assumed was aware of the grant, more especially as they required their lessee to keep that road in repair.

Mr. CURRIE.—Why would it not apply to the upper road as well as the lower one?

Mr. IRVING—That is enough for to-day on this subject.







John Birch page 69

L 233 Error - strike out South & insert North

P 456 Error shd be 1862 not 1866

